



**Assessment of Capacity Allocation
Mechanisms and Congestion
Management Procedures for effective
Access to Storage and
Proposals for the Amendment of the
Guidelines of Good Practice of Storage
System Operators (GGPSSO)**

Evaluation of Comments

**Ref: E10-GST-14-03
2 February 2011**

INFORMATION PAGE

Abstract

This document E10-GST-14-03 is an ERGEG document on Evaluation of responses on the Assessment of Capacity Allocation Mechanisms and Congestion Management Procedures for effective Access to Storage and Proposals for the Amendment of the Guidelines of Good Practice of Storage System Operators (GGPSSO).

In this document, ERGEG presents its position on stakeholders' feedback regarding the public consultation questions on the proposals for the amendment of the Guidelines of Good Practice of storage system operators and the actual CAM and CMP proposals. ERGEG also presents the final proposals that will be incorporated in the GGPSSO.

Target Audience

Energy suppliers, traders, gas/electricity customers, gas/electricity industry, consumer representative groups, network operators, Member States, academics and other interested parties.

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Related Documents

CEER/ERGEG documents

- Status Review 2008: Capacity Allocation Mechanisms and Congestion Management Procedures for Storage
- Status Review 2009: Capacity Allocation Mechanisms and Congestion Management Procedures for Storage
- Guidelines of Good Practice for Third-Party Access for Storage System Operators (GGPSSO), March 2005 (Ref: E04-PC-01-14)
- Assessment of CAM and CMP for effective access to storage and proposals for the amendment of the GGPSSO, July 2010, (Ref:E10-GST-09-06)

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EXECUTIVE SUMMARY

The ERGEG has carried out a monitoring process on the GGPSSO for CAM and CMP for storage over some years with Status Reviews in 2008 and 2009. This research showed a number of problems applying to allocation mechanisms in different market situations (resulting in a lack of economic efficiency in capacity allocation and incentives for new investments). Furthermore, it was found that a well functioning secondary market is of most importance. However, transparency of the secondary market is weak, while the principle of Use- It-Or-Lose-It (hereafter: UIOLI) is not generally being applied in practice. Although some legal requirements (through the 3rd Package) towards CAM and CMP will be introduced, these requirements will (mainly) provide considerations that need to be taken into account when designing CAM and CMP processes. For this reason, ERGEG has decided to make an amendment of the existing Guidelines of Good Practice of Storage System Operators.

Guidelines for CAM:

- Information is provided and shared where possible, as soon as possible and in the easiest way (language, terms, standards).
- Allocation design is consulted with the market.
- Allocation of storage capacity ensures compatibility with the CAM for transport.
- Combined products as a part of the SSOs product portfolio in case of market demand.
- Offered storage products support the balancing by aligning nomination and renomination periods and procedures to the technical requirements of the balancing regime.
- Allocation of storage capacity starts with a standardised OSP (timing is fixed and aligned to duration of the storage contracts).
- CAM depends on results of OSP: If demand exceeds supply auction (unless national legislation states differently) is the CAM of first choice,; if supply exceeds demand, allocation straightforward is possible.
- CAMs shall be subject to ex-ante review by NRAs if deemed necessary by NRAs

Guidelines for CMP:

- SSO is responsible for implementation and standardisation of secondary market, SSO can delegate the task to organise secondary market to a third party.
- If storage is scarce and market illiquid, SSO and storage users both actively share forecasts and make nominations in time to estimate unused capacity and also to maximise interruptible capacity
- Possibility of buy back by SSO, but only if there is need for storage capacity and a commitment from a storage user to buy capacity immediately (if market parties do not want to sell small parts of capacity).
- Possibility of working gas transfer, ideally to market-based prices.
- The price for interruptible capacity shall reflect the probability of interruption. Other pricing methods (auctions, “pay as used”) can be envisaged.

In general, without these additional guidelines the market might remain as congested as it is currently for some parts of the EU.

1. Introduction

Background to the public consultation

In most countries, storage is considered to be the most important flexibility tool. As a consequence, access to storage is an important prerequisite for the success of market players in the gas market. Given this importance, ERGEG conducted research (in 2008 and 2009) into Capacity Allocation Mechanisms (hereafter: CAM) and Congestion Management Procedures (hereafter: CMP). This research showed a number of problems applying to allocation mechanisms in different market situations (resulting in a lack of economic efficiency in capacity allocation and incentives for new investments) as well as a weak position of some National Regulatory Authorities (hereafter: NRA) to impose remedial solutions. Furthermore, it was found that a well functioning secondary market is important. However, transparency of the secondary market is weak, while the principle of Use- It-Or-Lose-It (hereafter: UILOI) is generally not being applied in practice.

With the enforcement of the 3rd Package (March 2011), the regulatory framework for storage will change. Although some legal requirements towards CAM and CMP will be introduced, these requirements will (mainly) provide considerations that need to be taken into account when designing CAM and CMP processes. In the view of ERGEG, it is therefore not expected that the 3rd Package itself will solve the problems regarding access to storage that ERGEG has identified in previous years. For this reason, ERGEG has decided to make an amendment of the existing Guidelines of Good Practice of Storage System Operators (hereafter: GGPSSO). As part of this process, different proposals for both CAM and CMP have been put forward, including a justification as to why a proposal should be in the GGPSSO.

Consultation process

On 29 July 2010, ERGEG launched a public consultation on “Assessment of CAM and CMP for effective access to storage and the proposals for amendment of existing Guidelines of Good Practice for Storage System Operators”. In this process, ERGEG asked stakeholders to give feedback on ten consultation questions (as well as on the guideline proposals for CAM and CMP). At the end of September 2010, an ERGEG workshop took place in Brussels to have an open dialogue with stakeholders to understand their views on the different proposals. In total, 33 stakeholders gave (written) feedback on the ERGEG consultation document.

Purpose of this paper

Following the consultation, ERGEG has reviewed stakeholders’ feedback on the CAM and CMP proposals to determine if (and how) each proposal should be revised. In this document, ERGEG presents its position on stakeholders’ feedback regarding the consultation questions (chapter two) and the actual CAM and CMP proposals (chapter three). In chapter three, ERGEG also presents the final proposals that will be finally incorporated in the GGPSSO. Table 1 (next page), provides a summary of the stakeholders that participated in the public consultation.

Table 1 – List of respondents¹

Respondents	Country
BDEW German Association of Energy- and Water Industries	Germany/Brussels
BP Gas Marketing	UK
Centrica Energy	UK
DONG Energy	Denmark
EDF S-A	France
Edison SpA	Italy
edp gás	Portugal
EFET (European Federation of Energy Traders)	Belgium
EnBW Energie Baden-Württemberg AG	Germany
Vereniging Energie-Nederland	Netherlands
ENI Divisione Gas & Power	Italy
E.ON AG	Germany
EURELECTRIC (Union of the Electricity Industry)	Belgium
EUROGAS (The European Union of the Natural Gas Industry)	Belgium
EuroPEX ASBL	Belgium
ExxonMobil Gas & Power Marketing	The Netherlands
GDF Suez	France
GIE – Gas Infrastructure Europe / GSE – Gas Storage Europe	Belgium
Iberdrola	Spain
Nuon – Vattenfall	Netherlands
Polish Oil & Gas Company	Poland
RWE Supply & Trading GmbH	UK
SBGI Utility Networks	UK
Shell Gas Dirct Ltd	UK
Statoil	UK
Storengy Germany	Germany
Storengy France	France
Storengy UK	UK
Wingas	Germany

¹ Additionally there are 4 confidential responses

2. Consideration of responses – consultation questions

2.1. Preface

In the public consultation, ERGEG asked stakeholders to give their opinion on a number of specific issues related to the scope and applicability of the consultation document. In this process, stakeholders were invited to reply and provide comments on ten (10) consultation questions that were related to both CAM and CMP. In this chapter, ERGEG presents stakeholders' feedback on these consultation questions and ERGEG's position. Before doing so, ERGEG will first present the general remarks that stakeholders made during the consultation period.

2.2. General comments

Stakeholders' feedback

In general, stakeholders are of the opinion that CAM and CMP are important processes that can ensure a level playing field for all market players with regard to access to storage facilities. From a market based point of view, work (by ERGEG) on CAM and CMP for storage is supported. However, stakeholders are divided towards the necessity (and therefore support) of an amendment of the existing GGPSSO. Some believe that only a few countries seem to experience storage related problems and advocate tackling these problems at the local level rather than at the European level. Others have indicated that the 3rd Package has not yet come into force and that the impact of the 3rd Package (and choices of Member States towards access to storage facilities) should first be known before proposing an amendment.

With regard to the proposals themselves: a number of stakeholders have indicated that the proposals made by ERGEG will positively contribute to ensure shippers have efficient and non-discriminatory access to storage capacity. Others consider some proposals to be too prescriptive and fear overregulation could negatively impact the competitiveness of the storage market.

ERGEG's comment

It is true that the 3rd Package has yet to come into force. However, ERGEG is of the view that the 3rd Package only gives some considerations that need to be taken into account when defining CAM and CMP processes for storage. As such, it is not expected that the 3rd Package itself will solve the problems regarding access to storage highlighted by ERGEG in past surveys. ERGEG also does not believe that the 3rd Package should first be implemented on a national level before any CAM and CMP processes can be designed: several proposals in the consultation document are based on legal requirements in Regulation 715/2009 that, according to European rules, do not have to be implemented on a national level. Also, ERGEG believes that the proposals do not lose their effect by the way Directive 2009/73/EG is implemented on a national level. In fact, the amendment has to be seen as a supplementation of EU law. With the amendment of the existing GGPSSO, ERGEG aims to develop guidelines for CAM and CMP that will benefit market players and ensure a level playing field. ERGEG has no intention to detriment the storage market. To avoid any overregulation, the public consultation was launched, resulting in a revision of several guidelines (based on comments of stakeholders).

2.3. Comments on the Public Consultation Questions

2.3.1. Consultation question 1: Auction as the preferred allocation mechanism

“To what extent do you agree that auction is the best allocation mechanism for storage and what will be the implications?”

Stakeholders' feedback

The majority of stakeholders agree with ERGEG that an auction – in case of congestion – is the most appropriate allocation mechanism.² A number of respondents have indicated that an auction – if an appropriate reserve price is taken into account – can also be applicable in a non congested market. With regard to the *design* of the auction, several stakeholders are of the view that an SSO – through a consultation of market participants – should have the competence to design the auction (respectively design an appropriate allocation mechanism).

A number of respondents disagree with ERGEG's statement that auctions should be the preferred allocation mechanism. Instead, they are in favour of bilateral trade and foster trade on virtual hubs, either because of Public Service Obligations (hereafter: PSOs) or because they think the SSO should design the allocation mechanism. Some other stakeholders have indicated that they prefer First Come First Served as an allocation mechanism, at least for short term capacity. Some stakeholders view the Capacity Goes With Customer (hereafter CGWC) allocation mechanism as most appropriate in cases where there are PSOs. However, others view it as inappropriate as it may discriminate new entrants (capacity is often only allocated two times a year) and traders (not being able to obtain (much) capacity).

ERGEG's comment

Based on stakeholders' feedback, ERGEG concludes that an auction is indeed the allocation mechanism that best meets the requirements of article 17 of Regulation 715/2009. For the avoidance of doubt, ERGEG would like to clarify that (as stated in the consultation document) certain market conditions need to be in place when conducting an auction (.e.g. adequate number of bidding parties) and auctions must be designed correctly (by consulting market participants) to ensure that they are effective. Through the consultation, it also has become clear to ERGEG that an auction can also be applied in a non-congested market, provided an appropriate reserve price is in place.

² In the view of most stakeholders, market conditions always need to be taken into account when choosing an appropriate allocation mechanism. An Open Subscription Period as proposed by ERGEG is seen as legitimate.

As such, while recognizing that other allocation mechanisms (such as FCFS) can be used to allocate storage capacity in a non-congested market, ERGEG will continue to have a clear preference for auctions (providing an appropriate reserve price and proper conditions are in place) as the appropriate mechanism for allocating storage capacity. In line with previous statements, ERGEG still considers that CGWC is not its preferred allocation mechanism as it does not best fulfil the requirements of the 3rd Package. However, ERGEG recognizes the PSOs in place in some countries explicitly require the use of CGWC as the allocation mechanism for storage rights. In such situations, ERGEG advocates that the remaining capacity should be sold through an auction mechanism.

ERGEG agrees with stakeholders that the SSO should choose (and design) the allocation mechanism (through an OSP). Although ERGEG continues to see a role for NRAs in this process, it recognizes that the “intensity” of this role should depend on the level of competition in the storage market. As such, the involvement of NRAs should diminish as the storage market becomes more competitive. Although the allocation of storage capacity should continue to be reviewed by an NRA, such a review should in this situation not be performed as often as in a poorly functioning storage market.

2.3.2. Consultation question 2: Transparency for CAM/ CMP

“In your opinion, what are the most important aspects regarding transparency that should minimally be addressed by SSOs for both CAM and CMP?”

Stakeholders' feedback

Several stakeholders are of the opinion that the requirements in the 3rd Package regarding transparency are adequate and that no further regulation on this topic is therefore necessary. Other stakeholders have indicated that they require more transparency and have provided a long list of topics that an SSO should provide information on (see below). Although transparency is of upmost importance, stakeholders are generally of the opinion that an SSO should not be obliged to publish prices, as these are considered confidential. In any case, information should always be published in the national language and additionally in the English language.

ERGEG's comments

For ERGEG, it is important that any information regarding transparency that is to be published should have added value for (potential) customers. Based on stakeholders' feedback, ERGEG concludes that – although article 19 of Regulation 715/2009 already provides transparency provisions – specific additional information should be published by the SSO. The SSO has to evaluate the actual market needs regarding information and should – taking stakeholders' feedback into account (see chapter three) and performing a cost benefit analysis – perform a market consultation.

In the view of ERGEG, information should always be published in a timely manner to ensure sufficient handling time for market participants and to comply with internal decision making procedures. Through the consultation, it has also become clear that stakeholders agree with ERGEG that information should be published in the national language as well as in English. Given the fact that storage users often are international companies (that do not always speak the national language), ERGEG feels that bilateral communication between an SSO and (potential) storage customers should be conducted in the English language.

2.3.3. Consultation question 3: Flexibility of storage use and design of UIOLI

“In your opinion, what is most important when designing UIOLI (including products and contracts) as to leave a storage user the flexibility to use its storage capacity when needed?”

Stakeholders' feedback

Several respondents feel – for either principal (storage is no monopoly), commercial (taking away business opportunities) or technical reasons (no possibility to react to emergencies) – that UIOLI should not exist at all in the storage market. A number of respondents have an opposite view and qualify UIOLI as an interesting tool to deter hoarding behaviour. Whatever the case, most respondents are of the opinion that UIOLI should never limit the ability of users to make reasonable use of their firm contractual rights. As such, re-nominations within the day should still be possible. UIOLI should therefore only be offered on the short term (day-ahead) and only on an interruptible basis. Offering long term capacity (firm) could hinder investments though a decreased incentive to book capacity for the long term.

Just about all respondents have indicated that a clear definition of “unused” capacity is vital before applying UIOLI and the criteria should be clear in advance. A precise definition however does not yet exist (some respondents thought this would be impossible) and different respondents have therefore suggested an in-depth analysis. Also, a “blanket approach” is seen inappropriate and a case-by-case approach is suggested if underuse (or hoarding) is expected. Several respondents are of the opinion that the different purposes of storage as well as possible constraints should be taken into account when determining underuse.

Several respondents view UIOLI only as the final step in congestion management procedures and prefer the encouragement and use of secondary markets. However, an SSO should not be obliged to do a buy back to free up capacity: it will increase its exposure and could lead to a systematic overbooking by users. A voluntarily buy back is seen by some respondents as appropriate if voluntary and only in case a shipper has requested for storage capacity on an early enough notion.

ERGEG's comments

Article 17 of Regulation No 715/2009 states that a system operator of a storage facility must offer any unused storage capacity – without delay – on the primary market, at least on a day-ahead and interruptible basis. In the view of ERGEG, no room for debate can therefore exist on whether UIOLI should be applied by SSOs as a congestion management procedure. ERGEG does agree with stakeholders that users should still be able to make use of their firm contractual rights once unused capacity is offered on an interruptible basis. Given the legal (European) requirement for balancing, users (as gas demand changes during the day) must be able to re-nominate storage capacity within the day.

UIOLI³ is an important contractual congestion management tool that can ensure that the maximum technical capacity of a storage facility is being made available to the market. It can also ensure that a storage facility is being used optimally. At the same time, applying UIOLI in storage is challenging due to the rigorous analysis and accompanying assumptions required. It is particularly important that SSOs implement interruptible UIOLI arrangements in cases where there is contractual congestion in a storage facility or in illiquid (tight) storage markets. Furthermore, UIOLI arrangements should be consistent with any PSO requirements.

Also, ERGEG agrees that it is vital to have a clear definition of “unused” capacity before applying an interruptible UIOLI mechanism. The actual use of a storage is influenced by different factors (such as temperature, market events etc.). It therefore seems unlikely that a “one size fits all” definition to determine under-utilisation of storage capacity is appropriate. As such, ERGEG concludes that it is appropriate that some flexibility exists for SSOs to develop arrangements for determining and offering unused capacity (as interruptible products) that are consistent with the technical parameters of their facilities. In this respect, ERGEG gives some considerations towards defining “unused” capacity for the purpose of determining the amount of marketable interruptible capacity:

In the view of ERGEG, unused storage capacity at a certain point in time (i.e. wgv, withdrawal, injection capacity on e.g. D-1) could be defined as the total amount of contracted firm capacity minus the currently *nominated* firm capacity (or stock level in case of wgv) of both unbundled and respective “parts” of bundled products plus any *incremental* firm capacity that becomes available through effective management of a storage facility. Both variables can be interpreted as follows:

- *Nominated capacity*: To determine the currently nominated capacity, it is important that primary capacity holders make a timely nomination – through an initial nomination – so that an SSO can timely consider the level of capacity that can be offered on an interruptible basis;

³ ERGEG recognizes that ex-post assessment of UIOLI is performed case-case and requires a lot of assumptions and further discussion. We therefore provide non-exhaustive guidance on the issue to the NRAs, SSOs and the market.

- ❑ *Incremental capacity*: With regard to incremental capacity: this largely depends on the operating conditions of a storage facility. These are influenced by aspects including technical capacity, design characteristics of the storage facility, current and expected temperatures, operational requirements, demand for storage services.

ERGEG recognises that – in comparison to the determination of “unused” capacity which will be facilitated by market actors making timely nominations on expected capacity use - it can be challenging for an SSO to determine what contracted capacity is “unneeded” by a primary capacity holder. In this respect, USED (synonym to NEEDED, as opposite to potentially hoarded) could be defined as “reasonably expected to be required” by an undertaking.

ERGEG is of the opinion that different UIOLI rules may apply to different dimensions of capacity offered under storage services, in respect to (i) space (i.e. working gas volume) or (ii) injection, withdrawal rights. For example, space may only be offered on an “interruptible basis” up until a certain threshold level of gas in store has been reached. Also, the capacity of the SSO to offer interruptible injection or withdrawal capacity may need to vary as a result of the technical capacity of the asset, counter flow nominations or “interruptions” of wgv (= limitations of retention time in store leading to urgently increased withdrawal rates) for example.

In case of a reduction of the release of unused capacity, that potentially concerns regulators, the following criteria (that only serve as examples) could be taken into account by an NRA:

- ❑ SSOs and relevant market actors are able to justify on technical and commercial grounds;
- ❑ Liquid secondary capacity markets and users are able to purchase firm capacity on a transparent and non-discriminatory basis;
- ❑ Little congestion at the facility and/or spare capacity available in the market.

Despite stakeholders’ feedback, ERGEG continues to hold the view that a buy back of storage capacity can be performed by an SSO. It is expected that this service can be of greater interest where the secondary market is not functioning well.⁴ However, through the consultation, it has become clear that a buy back will create a certain financial risk (e.g. stability of future cash flow) for an SSO if storage capacity cannot be immediately sold again. In addition, in the case of a mandatory buy back, it is possible that systematic overbooking could be encouraged. Therefore, a buy back should only be performed by an SSO if there is an actual need for this service and a commitment to buy capacity immediately. Although this is likely to mitigate the financial risk, it should remain up to the SSO whether to perform a buy back or not.

⁴ Through a buy back, an SSO can also perform “aggregation” by buying small pieces of storage capacity from different firm capacity holders (if available) and bundle it to one “big chunk”. Then it could be offered as one big “chunk” to users.

2.3.4. Consultation question 4: Standardisation of secondary markets

“In your opinion, to what extent should offered services and terms & conditions on secondary markets be standardized as to improve secondary trade of storage capacity? Is standardisation a way forward to enhance liquidity of secondary markets? What aspects of secondary markets (products, contracts, etc.) are the priorities to be harmonized?”

Stakeholders' feedback

In general, respondents have indicated that they support the idea of standardizing processes (e.g. terms and conditions). Although some respondents also welcome the idea of harmonisation of products (to facilitate trade), a majority disagrees: they consider that it could lead to an inefficient and uneconomic use of storage. Furthermore, they consider that storage sites have large differences and standardisation of products might constrain the flexibility offered. A number of respondents consider that the primary market should be harmonised first and to create a level playing field, so that the secondary market can follow. A large number of respondents also suggest to facilitate secondary market trading through a common platform such as store-x, for example.

ERGEG's comments

The secondary market should be considered an important tool to foster trading of any unused storage capacity. Based on stakeholders' feedback, ERGEG concludes that standardisation of processes e.g. terms and conditions that relate to storage facilities can indeed (as proposed in the consultation document) be standardized to ease the trade on secondary markets. Products should ultimately fit market needs and should not hinder the optimal use of a storage facility. ERGEG therefore chooses to leave room for a variety of products on the secondary market.

ERGEG is not convinced that a harmonised primary market is the precondition for harmonisation of the secondary market as suggested by some stakeholders as these two markets have to develop independently.

2.3.5. Consultation question 5: Pay-as-used as pricing strategy

“To what extent do you agree that (next to probability of interruption) pay-as-used can be applied as a pricing strategy for storage prices that are not regulated and what other pricing strategies would be suitable? How can pricing strategies incentivise new investment in storage and efficient use of storage?”

Stakeholders' feedback

Several respondents have indicated that in cases where a storage facility is not regulated, there should not be just one pricing strategy. In their view, the precise pricing strategy should be non-discriminatory, transparent and dependent on the specifics of the market. As such, an SSO should be (through consultation of the market) responsible for designing the precise pricing strategies. A price for storage capacity that is market based will provide sufficient signals on whether investments to enhance existing facilities or in new storage facilities are reasonable. Also, the pricing strategy should allow for a reliable stream of income to ensure the willingness of investors to invest in storage facilities. For the reduction of risk (with regards to investment) and from a security of supply point of view, long term pricing strategies should not be forbidden. In this matter, pay-as-used is seen by respondents as a pricing strategy that is not fit for purpose with regard to firm capacity. Also, it is expected that it could become a stimulus for hoarding for users or trigger users to reconstitute capacity (creating a risk for an SSO).

However, pay as used is seen by many respondents as a pricing strategy that can successfully be applied— when selling interruptible capacity on a day-ahead basis (as already performed by some SSOs). It would make products more attractive for users (they only pay when gas flows) and would incentivise an SSO to maximise capacity offered to the market. Some respondents have indicated that it is crucial for an SSO to be ensured that it can recover the costs of the provided service (which seems to suggest that an administrative fee should be in place).

Probability of interruption is also seen by some respondents as an appropriate mechanism. One respondent is afraid that pay-as-used could encourage capacity hoarding on the secondary market and suggests applying a pricing method where interruptible storage price reflects probability of interruptions would be more adequate for the secondary markets.

ERGEG's comments

Based on stakeholders' feedback, ERGEG concludes that the pricing strategy “pay-as-used” can be successfully applied by SSOs when selling interruptible capacity. This conclusion is based on the fact that this pricing strategy will reduce the financial risk for users as they will only pay for interruptible capacity if and as long as it is utilised. As a result, it is expected that users will find interruptible capacity more attractive. In line with stakeholders' feedback, ERGEG finds it reasonable for SSO to charge an administrative fee. However, this fee should be cost reflective and only cover costs which are related to offering the interruptible capacity.

ERGEG agrees with stakeholders that the decision to build a storage facility (mainly) depends on the reliability of a steady stream of income so as to ensure a return on investment. Therefore, ERGEG agrees that a market based pricing strategy should be in place (e.g. auctions) to ensure this. Based on stakeholders' feedback, ERGEG agrees that pay-as-used is not suitable as a pricing strategy for selling firm capacity.

2.3.6. Consultation question 6: Combined Products

“In your opinion, to what extent do you consider that combined products (i.e. storage services offered at virtual hubs) of storage and transport capacities are a useful and efficient service?”

Stakeholders' feedback

For a lot of respondents, a combined product of storage and transmission is seen as useful. The reasons for this differ: some indicate that it can enhance availability of storage capacity at the virtual hub, while others are of the opinion that it could have a positive effect on operations (only dealing with one operator) and will lead to lower costs. At the same time, one respondent raised the question to what extent a hub delivered product puts the SSO in the position to trade products. A fixed reservation of transport capacity for storage is seen by others as difficult as it discriminates storage users against other shippers. Finally, one respondent asks to what extent ERGEG is consistent with the 3rd Package which advocates further unbundling.

Most respondents have made clear that combined products should only be offered if there is an actual market need and should not just be the result of regulatory intervention. In their view, the precise product design should be left up to the SSO, who should consult the market to assess interest of market participants and properly design products. A good alignment of duration and lead time, but also sufficient (and matching) firm entry/exit capacities between storage and transmission is seen as an important prerequisite by some respondents. Also SSOs should not be obliged to offer combined products. A number of respondents in this matter have indicated that booking capacities without knowing storage users' needs would create unjustifiable financial risk for SSOs and the decision to offer a combined product should therefore be their choice.

The majority of respondents agree that combined products should be offered if there is demand BUT without any obligation on the SSO, thus only on a voluntary basis. Above all, timing of storage and transport capacity allocation should be compatible.

ERGEG's comments

For ERGEG, the offering of combined products should have an added value for (potential) storage users and not merely be in place because of regulation. Based on stakeholders' feedback, ERGEG concludes that combined products indeed have value for customers. In the view of ERGEG, SSOs – in case contracting storage capacity does not automatically provide access to the transmission system – should therefore enable users to make use of combined products (transport and storage capacity). To do so, SSOs should contact TSOs and make their best effort to define a jointly offer transmission and storage capacity to users. Also, essential conditions (such as duration and lead times) should be aligned as well as possible.

Through the consultation, it has become clear that SSOs will face a financial risk if firm transport capacity is being booked, while the actual demand of users is not known. Additionally, a fixed reservation (while actual demand for combined product is not known) means that firm transport capacity could be kept away from the market. Therefore, ERGEG is of the view that a SSO should offer a combined product if there is an actual market demand for such products (e.g. as shown by a representative survey) and a user has announced timely to buy the product (and firm transport capacity is available). In addition, SSOs should perform on a regular basis (at least once a year) a market consultation to determine whether there is an actual market need and properly design the product that is “fit for purpose”.

ERGEG does not agree with stakeholders’ feedback that the proposal might not be in line with the 3rd Package. Unbundling refers to organisational and not product-related measures. There is a possibility of combined operators according to Article 29 Directive and further Article 17 Regulation, which allows the offering of combined products, as there should be an efficient and maximum use of capacity as well as compatibility with the connected network access systems. However, to mitigate any risk, ERGEG is of the view that SSOs (when undertaking activities necessary for offering combined products) must ensure that there is a sufficient nexus between those activities and providing storage services.

2.3.7. Consultation question 7: Incentives to stimulate secondary market

“In your opinion, what market mechanism (incentive) should be in place to stimulate a storage user to offer any unused capacity on the secondary market?”

Stakeholders’ feedback

Several respondents are of the opinion that no direct incentives to stimulate the secondary market for storage capacity are needed. According to some respondents, a liquid and well functioning gas market should enable users to price flexibility. It should be the market itself that provides incentives for users to trade on secondary markets and users should have commercial interest in secondary trading. Customers’ interest to avoid needless cost should be a sufficient driver to offer unused capacity to the market. The appliance of incentives thus depends on the competitiveness of the storage market and the number of market parties with access to storage.

For many respondents, a well functioning, easy-to-use common internet platform is essential for the establishment and positive development of a secondary market, but – according to one respondent – this should not exclude bilateral trade. A single platform would have the advantage to centralize bids and offers. According to several respondents, it should offer buyers and sellers the possibility to trade anonymously. Some respondents are also of the opinion that an adequate number of trading parties is essential and terms and conditions for offering unused capacity should be standardized. They consider that users should also be able to separately trade – if appropriate – injection capacity, withdrawal capacity and working volume.

For some respondents, secondary markets are especially beneficial where storage is the main source of flexibility to balance the system. Others are of the opinion that more flexibility tools should exist to promote secondary markets. Several respondents have qualified the secondary market as a customers market, meaning that it will be users (both buyers and sellers) that “make” the market. The SSO should facilitate the secondary market so that users have the opportunity to trade storage capacity. Transparency by the SSO seems to be an important prerequisite for several respondents e.g. to publish information regarding unused capacity in a timely manner.

ERGEG's comments

ERGEG agrees with stakeholders that the secondary market is a “customer market” and that its effectiveness should be the result from the willingness of users to buy or sell storage capacity. An incentive is therefore only appropriate if the secondary market is not liquid. A precise incentive that is best for a specific secondary market is likely to differ and be based on aspects such as the actual market situation and market needs. As such, ERGEG is of the view that such conditions should be taken into account when defining the proper incentive. For the avoidance of doubt, ERGEG would like to clarify that the existence of a trading platform should not exclude the possibility for bilateral trade: users should (continue to) have the possibility to trade capacity on bases other than a platform. Based on stakeholders’ feedback, ERGEG concludes that a well functioning, easy-to-use platform is an essential prerequisite for the secondary market.

In the view of ERGEG, it should be the task of SSOs to facilitate the secondary market: based on Article 22 of Regulation 715/2009, SSOs are to take reasonable steps to ensure and promote that capacity rights can be freely traded on a transparent and non-discriminating way. For the avoidance of doubt, ERGEG would like to clarify that SSOs can choose to delegate this task to a third party that will organize the secondary market and run the day-by-day business. From a customers’ point of view, a single platform seems preferable as it centralizes bids and offers.

2.3.8. Consultation question 8: Cross border offering of storage products

“In your opinion, to what extent is the (cross border) offering of storage products/combined transport-storage products useful to market parties and what should these products (e.g. minimum requirements) look like?”

Stakeholders' feedback

Several respondents are of the opinion that combined storage and transmission products can enhance cross-border trade and foster integration of European gas market,⁵ but this should not lead to a restricted access to storage.

⁵ One respondent believes that focus should rather be on enhancing competition through liquid trading hubs for gas to reach the proposed goal. Two respondents doubts about how combined products would deliver overall benefits.

Several respondents have also indicated that such products should be offered only if there is demand for them and it is believed that these products will emerge by market demand. SSOs should therefore be able to design such products (after consulting market participants) but offering these products should not be mandatory as SSOs will bear the financial risk.

Respondents have mentioned that there seems to be a number of essential conditions that need to be in place when offering combined storage products. There should be, among other things, availability of transmission capacity, alignment of nomination times and harmonisation of grid access systems (including nomination and balancing needs). Also, it was indicated by some that within day remunerations across borders are permitted in ways that allow storage in one Member State to be used in another.

ERGEG's comments

ERGEG's comments have already been included in question 6.

2.3.9. Consultation question 9: Measures to facilitate CAM and CMP

"To what extent do you consider the proposals will facilitate allocation and congestion management of storage capacity. What other measures should be in place?"

Stakeholders' feedback

Four respondents clearly support the proposals but with some reservations, also four respondents clearly say "No". Several representative stakeholder organisations express their doubts towards (the timing of drafting) the proposals. Another representative organisation of stakeholders has indicated that it supports the proposals, but just for regulated storage access. Some stakeholders are of the opinion that the effects of the new regulation should be examined first prior to establishing new guidelines.

ERGEG's comments

Based on stakeholders' feedback, ERGEG concludes that "mixed feelings" exist towards the support for (the timing of drafting) the proposals. Although these mixed feelings are understandable, ERGEG continues to believe that (as stated in chapter two) the implementation of the 3rd Package will not automatically result in enhanced allocation and congestion management for storage facilities. Please also see ERGEG's comments to the general remarks by stakeholders (2.2.) also referring to the timing of drafting the proposals. In addition, ERGEG does not agree that the proposals should only be applicable to storage facilities that have regulated access. Past surveys have shown that the problems addressed by the proposals also occur at storage facilities with negotiated access. However, ERGEG recognizes that the "strictness" of applying the GGPSSO depends on the competitiveness state of the energy market.

“In particular, what possibilities do you see to enhance efficient use of storage, reserved for public service obligations like e.g. strategic storage or other reserved storage? Under which conditions would additional use of such storage as (interruptible) short-term product or remarketing on secondary market be acceptable? Could you give examples from your day-day experience?”

Stakeholders' feedback

For several stakeholders, strategic storage could be used more efficiently provided there is a clear definition of capacity, calculation is made transparent and regular recalculation is available. Other stakeholders have made clear that the need for strategic storage could be diminished if a market based balancing regime is introduced, interconnection capacity is better utilised or a combined pipeline system operation exists in case of emergency. Also, it was suggested to limit the obligation to the winter period. A few stakeholders are of the opinion that day ahead interruptibles could free up strategic storage capacity. One respondent has indicated that the pricing for commercial storage (market based) and strategic storage (regulated) is different. Some respondents warn that the release of strategic storage for commercial purposes may distort the market and the investment decisions.

ERGEG's comments

For ERGEG, while recognizing that PSOs are in place in some countries (explicitly requiring the use of CGWC as the allocation mechanism for storage rights), it is important that strategic storage should be limited to the minimum and necessary level. The use of storage customers of strategic storage for commercial reasons could also influence the value of the commercial storage; therefore it should be handled with care and should be predictable and transparent.

“In particular, what best practice for CAM and CMP should be in place for specific cases when parts of LNG terminal facilities potentially function as storage capacity⁶? Could you give examples from your day-to-day experience?”

⁶ According to article 2 of the Directive:

'storage facility' means a facility used for the stocking of natural gas and owned and/or operated by a natural gas undertaking, including the part of LNG facilities used for storage but excluding the portion used for production operations, and excluding facilities reserved exclusively for transmission system operators in carrying out their functions;

In addition, Regulation 715/2009, explains that:

'storage capacity' means any combination of space, injectability and deliverability.

So it is implied that any CAM and CMP guidelines for storage could also be applied to LNG tanks when these are used to storage gas, and not for operational purposes. This is important not only because of the different technical characteristic of LNG terminals and underground storages that may influence the CAM and CMP to be applied, but also because LNG terminals combine the function of introducing gas in the transmission network with storing LNG. According to this double function, different CAMs and CMPs may be implemented in a LNG terminal, and we see that this should be carefully addressed.

Stakeholders' feedback

Almost half of the respondents, 14, say that the GGPSSO should not be applied for LNG facilities. One respondent states that this only possible when LNG operators declare LNG tanks to be just for storage use. Another respondent argues that the main purpose of the LNG facilities is regasification and it is difficult to define which part of the facility is for storage purposes.

ERGEG's comments

ERGEG recognizes that LNG-facilities (next to regasification purposes) can serve for storage purposes. However, LNG operations are complex and further analysis of the precise functioning of these facilities is needed (which is out of the scope of the ERGEG GST TF). In this matter, it is also noted that ERGEG already has a Task Force LNG that has recently investigated CAM and CMP with regard to LNG. As such, the GGPSSO will not include CAM and CMP proposals that (specifically) address LNG-facilities.

2.3.10. Consultation question 10: Additional competences for NRA's

"To what extent would you agree NRAs should be endowed with additional competences in developing CAM and CMP?"

Stakeholders' feedback

Most stakeholders oppose the idea that NRAs should be endowed additional competences in developing CAM and CMP. Some stakeholders are of the opinion that, pending the full implementation of the 3rd Package, it is premature to have a discussion on additional powers. Only a few stakeholders have indicated that they welcome more NRA intervention.

ERGEG's comments

As already indicated in this document, ERGEG has no intention to overregulate the storage market. As such, additional competences in developing CAM and CMP should only be endowed to NRAs if there is clear reason for doing so. As in the past, ERGEG will continue to monitor the compliance of the proposals timely. If this monitoring would reveal that some SSOs do not apply the guidelines, it could be discussed to endow NRAs with additional competences related to CAM and CMP. However, ERGEG expresses its confidence in the pending proposals and – at least for now – sees no reason in endowing NRAs with additional competences in developing CAM and CMP.

3. Consideration of responses – guideline proposals

ERGEG would like to clarify that Member States' (NRA's) specific regulation has to be taken into consideration when the guideline proposals for CAM and CMP (as presented in this document) are applied. Furthermore, in the case that a SSO does not bear the responsibility for allocating capacity and/ or congestion management (as is the case in at least one country), then the responsible party should then follow the guideline proposals as presented in this document.

3.1. Comments on CAM

In the paragraphs below, ERGEG presents stakeholders' feedback on the specific proposals in the public consultation, followed by ERGEG's comment on the given feedback. ERGEG then presents the final proposal as well as an explanation that will be integrated in the existing GGPSSO. If stakeholders have provided feedback on the consultation questions (chapter two) that is also of importance for a specific proposal, a reference to this will be made.

3.1.1. Guideline proposal A: Transparency

“Allocation of storage capacity shall be made transparent by detailed publication of timing, organisation (schedule) and results of applied allocation mechanisms on the Internet in the local language as well as in English.”

Explanation to the proposal

For reaching maximal market awareness and for ensuring the principle of non-discrimination, SSOs shall publish at least on their website (and common marketing/trading platform(s)) in English and the local language the actual design of the capacity allocation mechanism, including a schedule for regularly applied allocations, the actual procedure and its timing as well as further conditions that may apply and the results of the process.

Stakeholders' feedback

One respondent agrees with ERGEG, that details of the applied allocation shall be made public, but due to confidentiality reasons the results of the allocation process should not be published. Thus “...and results...” should be deleted. Referring to the feedback on the consultation questions, several stakeholders find that the requirements in the 3rd Package regarding transparency are sufficient, whereas others require more transparency and have thus provided a list of information which should be given by the SSO.

ERGEG's comment

Transparency is one prerequisite for non-discrimination of market participants. As ERGEG finds the objection of the respondent legitimate the results of applied CAM should be published anonymously and aggregated. ERGEG agrees with the proposal made by a number of market participants in line with the public consultation question on transparency for CAM and CMP to also use English as the “official language” for the bilateral communication between the SSO and the (potential) storage users. Furthermore ERGEG welcomes the widespread information request by stakeholders.

Final guideline (to be integrated in existing GGPSSO) and explanation

“Allocation of storage capacity shall be made transparent by detailed publication of timing, organisation (schedule) and aggregated results of applied allocation mechanisms on the Internet in the local language as well as in English. English should also be used by the SSOs when communicating with (potential) storage users if requested by users.”

For reaching maximal market awareness and for ensuring the principle of non-discrimination, SSOs shall publish at least on their website (and common marketing/trading platform(s)) in English and the local language the actual design of the capacity allocation mechanism, including a schedule for regularly applied allocations, the actual procedure and its timing as well as further conditions that may apply and the aggregated results of the process. In order to facilitate transparency, SSOs should provide, for example, the following information, in which the extensiveness depends on cost-benefit analysis/ user consultations to find out their needs:

- *Working gas volumes, firm and interruptible withdrawal and injection capacities for each storage facility on a daily and longer term basis (technical, commercialised, subscribed/booked, and available capacities)*
- *Historical interruption data/ Historical flows / levels of utilisation at each storage facility*
- *Planned Maintenance operations as far ahead as possible;*
- *Nomination lead times for different capacity products (yearly, monthly, daily);*
- *Clear description of CAM and CMP in the contract terms, so that users are fully aware of their storage access rights and obligations;*
- *Calculation of tariffs;*
- *Contact details;*
- *Nomination lead times;*
- *Ancillary services offered;*
- *Clear information on the applied mechanisms, procedures and necessary steps to request storage capacity or trade capacity on secondary market;*
- *Methods and timing for allocating storage capacity, if under a “ storage rights envelope” giving access to available capacities;*
- *Overview of relevant regulations);*
- *Characteristics of Storage groups;*

- *Detailed information provided to storage users in case of unplanned outages (affecting injection and withdrawal rate (impact on storage operation, duration of the disruption...));*
- *Day-ahead service for each storage group (withdrawals per Quarter, minimum and maximum price ; Injections per Quarter, minimum and maximum price);*
- *Documents and tools (storage agreement, tool system to help to determine/optimize the storage subscriptions, storage fee calculator...)*
- *Transfer of stored gas (Number of registered exchanges, Number of customers).*

3.1.2. Guideline proposal B: Consultation with market

“Allocation of storage capacity shall be subject to regular and/or NRA triggered consultation with the market, e.g. concerning the actual design of the allocation mechanism(s).”

Explanation to the proposal

To accommodate market needs best, well-structured, regular consultations with actual and potential storage users on the actual design of the allocation mechanisms, i.e. auction design, are expected to be a beneficial instrument.

Stakeholders' feedback

One respondent agrees with ERGEG on this proposal but suggests mentioning the importance of stability for market actors. For example, too many changes in the design of the allocation mechanism would be counterproductive. Another respondent suggests deleting this ERGEG proposal, as the demand for capacity or different products can be matter of consultation with the market but not the method of allocation. Furthermore it would be very difficult to harmonise different market requests.

ERGEG's comment

From ERGEG's point of view it is very important to consider the market needs as they set clear signals. Regular consultations do not have to lead to constant changes but may also have the result that the majority of market participants are satisfied with the chosen CAM. Thus this guideline proposal does not imply that the design needs to be changed regularly but if required.

Final guideline (to be integrated in existing GGPSSO) and explanation

“Allocation of storage capacity shall be subject to consultation with the market, e.g. concerning the actual design of the allocation mechanism(s).”

To accommodate market needs well-structured regular consultations with actual and potential storage users on the actual design of the allocation mechanisms, i.e. auction design, are expected to be a beneficial instrument for design of optimum allocation, though it does not imply that the design needs to be changed frequently.

3.1.3. Guideline proposal C: Compatibility

“Allocation of storage capacity shall ensure compatibility (i.e. regarding timing / lead time) with the transport capacity allocation mechanism(s) of the connected TSO(s) and the organization of the gas trading market(s). Consequently, this also requires to align at least a basic set of storage products (with regards to duration and lead time for regular allocation) to transport products.”

Explanation to the proposal

For facilitating a gas market, easy access to storage services is very beneficial. To prevent burdening storage customers when trying to organise related transport services, compatible allocation mechanisms consequently also require aligning (the definition of) storage products to transport products (with regards to contract duration and lead times for regular allocation procedures (allocation schedule) of connected TSOs. Just as with transport products, storage products should be designed to make them exchangeable or interchangeable. It should be possible to commercialise these standard products on (electronic) trading platforms. In the competitive flexibility markets the design of CAM should also take into account the organisation of the wholesale and retail markets, more precisely implying that products (duration), organisation and timing of storage CAM should be compatible with the organisation of the gas trading market(s).

Stakeholders' feedback

One respondent agrees on a general basis with this proposal and sees no problem of coordination at the transport/storage interface. Two stakeholders point out that the requirement to align at least a basic set of storage products (with regards to duration and lead time for regular allocation) to transport products should be bilateral, as this can only work if the TSO is willing to co-operate. But one of these respondents sees that this would make the GGPSSO also applicable for TSOs, which would be outside the scope of this document.

For another respondent it is not possible to “ensure” but to “make best efforts” to harmonise allocation mechanisms. Furthermore basic design data (lead time, contract period,) may be harmonised with transportation capacity allocation mechanism(s), but in the majority of cases storage products reflect the geological parameters and as these parameters are different for all storage sites it is almost impossible to create harmonised economic products even with other SSOs. The proposed formulation does not take into account the existing legal framework of member states: e.g. in case of a country in which different renomination times for Domestic and Non-Domestic customers are applied.

In this case an according harmonisation can only be effected by the member state itself. A further stakeholder suggests that “i.e. regarding timing / lead time” should be changed in “i.e. and/or reference be expanded to include all elements of product design and allocation methodologies”.

ERGEG's comment

ERGEG agrees that the development of storage products takes into account the geological parameters of the actual storage site. ERGEG recognises that storage products can be additionally driven by technological arrangements like compression or commercial arrangements like a contract with adjacent TSO to overcome minimum flow constraints. However, as storage products are less useful when the transport capacity to the storage site is lacking, it is seen reasonable to align duration and lead time for regular allocation of storage and transport capacity.

ERGEG agrees that the GGPSSO do not imply the commitment of TSOs to such an alignment. However SSOs should make the best efforts to offer a basic set of storage products (with regards to duration and lead time for regular allocation) to transport products – if there is a market need.

Final guideline (to be integrated in existing GGPSSO) and explanation

“Allocation of storage capacity shall ensure on best effort basis compatibility (e.g. regarding timing / lead time) with the transport capacity allocation mechanism(s) of the connected TSO(s) and the organization of the gas trading market(s). Consequently, this also requires to align at least a basic set of storage products (with regards to duration and lead time for regular allocation) to transport products.”

For facilitating a gas market, easy access to storage services is very beneficial. To prevent burdening storage customers when trying to organise related transport services, compatible allocation mechanisms consequently also require aligning (the definition of) storage products to transport products (with regards to contract duration and lead times for regular allocation procedures (allocation schedule) of connected TSOs. Just as with transport products, storage products should be designed to make them exchangeable or interchangeable. It should be possible to commercialise these standard products on (electronic) trading platforms. In the competitive flexibility markets the design of CAM should also take into account the organisation of the wholesale and retail markets, more precisely implying that products (duration), organisation and timing of storage CAM should be compatible with the organisation of the gas trading market(s).

3.1.4. Guideline proposal D: Combined Products

“Allocation of storage capacity shall allow for and endorse the development and offer of combined storage and respective transport capacities as one product in order to allow for offering such storage services at the virtual hub.”

Explanation to the proposal

For further improvement of services to storage customers, the further development of compatible storage and transport CAM could be concluded with an integrated storage and transport product, to be organized and offered by SSOs, if there is market demand for such a service. This would of course imply a close co-operation of the concerned SSO with the respective TSO(s).

Stakeholders' feedback

Two respondents want to have this proposal deleted. They consider that combined products should not be an obligation and above all this would make these GGPSSOs also applicable for TSOs but that is outside the scope of this document. One of them stated that due to legal unbundling and the required introduction of “Chinese Walls” between the newly founded entities such a close cooperation is no longer possible. Another respondent agrees with the principle of allowing combined storage/transport capacities but that it should not be a priority. Therefore the deletion of “...and endorse...” is suggested. It was also suggested by most respondents in their feedback on the consultation question regarding “combined products”⁷, to offer these products only, if there is an actual market need and without any obligation for the SSO. The same prevails for the cross border offering of storage products/combined transport-storage products.

ERGEG's comment

With this guideline ERGEG wants to establish a basis for offering a combined product as one part of the whole SSO product portfolio. Combined products will not be possible if interconnected TSOs and SSOs are not able to reach an agreement. ERGEG cannot impose an obligation on SSOs to develop combined products, but can ask them to do their best in order to broaden the product range to further foster markets' liquidity. In this respect, ERGEG finds it important that NRAs are timely informed when an SSO has the intention to offer combined products.

ERGEG sees no unbundling conflict in having offered both “combined with transport” and “not-combined” products by the SSO. On the contrary, combined products contribute to transparency and non-discrimination. – increasing level playing field as meant by unbundling requirements – between the market actors. The optimum use of the network – envisioned by relevant regulation – implies that SSOs strive to develop products contributing to that goal. As storage is a tool that is key to foster internal market competition, it is fair that SSOs offer combined products to their customers after negotiating these with TSOs.

⁷ see question 6, 2.3.6

Additionally, from a legal point of view ERGEG would like to draw attention to the following arguments for why combined storage and transport products do not breach unbundling provisions:

- Unbundling refers to organisational and not product-related measures
- Article 29 Directive refers to the possibility of combined operators
- Article 17 Regulation allows the offering of combined products, as there should be an efficient and maximum use of capacity as well as compatibility with the connected network access systems

Final guideline (to be integrated in existing GGPSSO) and explanation

“Allocation of storage capacity shall allow for the development of combined storage and respective transport capacities as one product within the SSOs product portfolio in order to allow for offering such storage services at the virtual hub.”

To further improve services to storage customers, the further development of compatible storage and transport CAM could be achieved by an integrated storage and transport product, to be developed and offered by SSOs, if there is market demand for such a service. This would of course imply a close co-operation of the concerned SSO with the respective TSO(s) in the concerned balancing/market area. An NRA has to be timely informed when an SSO has the intention to offer combined products.

3.1.5. Guideline proposal E: balancing Market

“Allocation of storage capacity shall take into account the needs of balancing markets.”

Explanation to the proposal

Since storage services often constitute an important balancing resource, SSOs should make sure that the offered services contain e. g. standard products, that are compatible with the balancing regime (both in terms of product definition and CAM organisation (timing)).

Stakeholders' feedback

One stakeholder responded that all aspects of the capacity utilisation should be compatible with the balancing market design, for example the timing of storage nomination would need to consider the notice times required in the flexibility/balancing market. Two stakeholders said it was not clear what this proposal implies.

ERGEG's comment

ERGEG accepts the need for clarification of this proposal. Storage products should support balancing by aligning nomination and renomination periods and procedures to the technical requirements of the balancing regime and – if technically possible – shorten lead times to ensure that storage products can be used for providing balancing gas.

Final guideline (to be integrated in existing GGPSSO) and explanation

“Allocation of storage capacity shall take into account the needs for balancing markets by offering services which support the balancing by aligning nomination and renomination periods and procedures to the technical requirements of the physical balancing regime. If technically possible, lead times shall be shortened so that balancing gas can be taken from storage.”

Since storage services are often (sometimes even as the only measure) used for balancing purposes⁸, SSOs should make sure that the offered services contain a.o. standard products, which are compatible with the balancing regime (both in terms of product definition and CAM organisation (timing) and fulfil the needs of the different customer groups (such as TSOs).

3.1.6. Guideline proposal F: Open Subscription Period

“Allocation of storage capacity shall start with an open subscription period (OSP). At least during the OSP, SSOs shall provide all relevant information including specific storage product descriptions, contract durations, (reserve) prices and the conditions for the respective CAM(s) to be applied according to the results of the OSP to the potential customers. The timing of the OSP should be fixed and aligned to the duration of the respective storage contracts.”

Explanation to the proposal

The allocation process shall always start with an open subscription period (OSP) in order to ensure a transparent and non-discriminatory participation of all interested storage customers in the subsequent allocation procedure. The relevant information to be provided at least during the OSP must be easily accessible to potential customers. Some of that data, which is unlikely to be modified over time, like product description, contract durations, general terms and conditions could also be published permanently (see also guideline proposal A: Transparency).

⁸ sometimes even as the only resource.

Timing of the OSP should be fixed and aligned to the contract durations, meaning that the OSP should start / end sufficiently ahead of the beginning of the contract, and that the length of OSP should reflect the duration of the contract. Examples: The OSP of a standardised yearly storage contract (representing a calendar year a) should always last from 1.10. until 15.12. of the previous year (a-1), the OSP for a daily storage contract (for day d) from 10:00 – 11:30 the day ahead (d-1).

When the OSP closes, SSOs have an overview of the storage capacity demand for the specific storage product. This demand determines the choice of the subsequent allocation procedure, e.g. if demand is less or equal to capacity on offer, allocation is straightforward (just as with FCFS, every customer gets allocated the capacity requested) at published prices (= minimum reserve prices in an auction design). With regards to auctions, an OSP is typically part of an auction process: the period for submitting bids is identical to the OSP. (If a multi-level auction was applied, OSPs represent the several bidding rounds).

Stakeholders' feedback

One respondent points out that storage years are often not calendar years. Another respondent suggests deleting the last sentence as OSP procedures should not be standardized. A further stakeholder stated that not each and every allocation method is suitable to start with such a subscription period (e.g. FCFS). OSP should be used for allocation of new and/or significant amount of capacities by open season or auction for long-term-contracts. It is suggested to enhance the first sentence of the proposal by "...open subscription period (OSP) for allocation by auction or open season."

ERGEG's comment

The comment regarding the difference in storage years is reasonable, but this is just an example and could be specified by ERGEG. ERGEG points out that the purpose of an OSP is to determine the adequate allocation mechanism and hence sees no reason to adapt the guideline proposal as suggested by the stakeholders.

Final guideline (to be integrated in existing GGPSSO) and explanation

"Allocation of storage capacity shall start with a standardised open subscription period (OSP). At least during the OSP, SSOs shall provide all relevant information including specific storage product descriptions, contract durations and the conditions for the respective CAM(s) to be applied according to the results of the OSP to the potential customers. The SSO should consider providing price information to the potential customers as e.g. indicative prices. The timing of the OSP should be fixed and aligned to the duration of the respective storage contracts."

The allocation process shall always start with an open subscription period (OSP) in order to ensure a transparent and non-discriminatory participation of all interested storage customers in the subsequent allocation procedure. The relevant information to be provided at least during the OSP must be easily accessible to potential customers and in a user-friendly manner. Furthermore, an SSO should consider providing price information (e.g. indicative price). Some of that data, which is unlikely to be modified over time, like product description, contract durations, general terms and conditions could also be published on a permanent basis.⁹ Timing of the OSP should be fixed and aligned to the contract durations.¹⁰

Examples: The OSP of a standardised yearly storage contract (representing a calendar year "a") should regularly last for example from 1.10. until 15.12. of the previous year (a-1), the OSP for a daily storage contract (for day "d") from 10:00 – 11:30 the day ahead (d-1).

When the OSP closes, SSOs have an overview of the storage capacity demand for the specific storage product.

3.1.7. Guideline proposal G: CAM depending on result OSP

"Allocation of storage capacity shall with respect to the applicable mechanism be determined by the results of the OSP:

1. If demand exceeds supply - and unless national legislation stipulates differently - auctions should be implemented for allocation of all of the capacity offered with this storage product or service in the preceding OSP.
2. If supply exceeds or is equal to demand, allocation is straightforward."

Explanation to the proposal

OSP can lead to two different situations: i.e. the demand either exceeds the offer or it does not. This provision aims at defining a harmonized approach on the CAM to be used to deal with these two situations:

⁹ see also guideline proposal under 1.1.1.

¹⁰ "Fixed": timing provides sufficient time for storage users to contract storage services, ahead of the beginning of the contract.
"Aligned to the contract durations": timing reflects the duration of the contract.

1.) If the market for the selected product is tight (demand > offer):

Only if there are no (other) national provisions on the regulatory treatment of storage capacity allocation mechanisms, the CAMs shall be adjusted to fit market needs sufficiently and simultaneously representing the best possible market-based mechanism. In such cases, as long as competition between the bidders and absence of the possibility to strategically misbehave are assured, auctions should be implemented as the CAM of first choice, as such mechanisms seem to be the most market-oriented and value-reflecting way of allocating (especially scarce) capacity.

Consequently, after a sufficiently long period of transition, FCFS methods should ultimately be disallowed. In the case of insufficient (geological) potential for developing a storage market, or if there is a very “tight” market for storage services in general, there are usually already national regulatory provisions or legal dispositions in place (such as priority access rules, pro rata regimes, CGWC etc. for example to fulfil public service obligations). In such markets, concerned SSOs shall not be affected by this rule.

2.) If the market for the selected product is not tight (demand \leq offer):

Allocation is straightforward: Every customer gets allocated the capacity requested, leading to the same results as with FCFS. But with the right auction design, an already implemented auction mechanism (for case 1.) could still be used in this case 2.): After the OSP, where “bids” (on capacity amount) have been collected, the bids are subsequently simply allocated at the minimum reserve price (or regulated price).

Stakeholders' feedback

One stakeholder, suggesting deleting the whole guideline proposal as a general prohibition of FCFS is not acceptable, argues that SSOs must have the possibility to choose the best method of allocation on their own depending on the type of product (new, existing, long-term, short-term contracts, commercial aspects, organisation etc.).

Another stakeholder agrees as SSOs should be allowed to choose a fair capacity allocation method complying with the criteria of objectivity, transparency and non-discrimination that suits the business. Auctions should not be made obligatory.

For one respondent straightforward means a fair and transparent applied allocation method based on first come first served. One stakeholder mentioned, that it is not always possible to determine ex ante of the actual allocation process whether demand will exceed supply or not and points out that the setting of any reserve price must be made with care, as the establishment of an excessive reserve price can clearly lead to low demand for a product. This respondent also agrees with another respondent, saying that auctions are not the only market based mechanism that is available to SSOs, e.g. Rough storage facility in UK also uses other mechanisms.

ERGEG's comment

ERGEG agrees that under “straightforward” a fair and transparent FCFS principle can be applied.¹¹ Regarding the stakeholders’ input that auctions should not be made obligatory to prevent deletion of the whole guideline proposal, ERGEG points out that auctions are key element of the enhancement of the GGPSSO on CAM and CMP in order to foster internal market competition and therefore does not change the wording. In addition there is no general prohibition of FCFS, but the application should depend on the market situation. We further mention that, according to ERGEG assessment FCFS is in general a weak allocation mechanism in scarcity situations.

Final guideline (to be integrated in existing GGPSSO) and explanation

“Allocation of storage capacity shall with respect to the applicable mechanism be determined by the results of the OSP:

1: If demand exceeds supply - and unless national legislation stipulates differently - auctions should be implemented for allocation of all of the capacity offered with this storage product or service in the preceding OSP.

2: If supply exceeds or is equal to demand, allocation is straightforward.

An OSP can lead to two different situations: i.e. demand exceeds offer or not. This provision aims at defining a harmonized approach on the CAM to be used to deal with these two situations:

1.) The market for the selected product is tight (demand > offer):

Only if there are no (other) national provisions on the regulatory treatment of storage capacity allocation mechanisms, the CAMs shall be adjusted to fit market needs sufficiently and simultaneously representing the best possible market-based mechanism. In such cases, as long as competition between the bidders and absence of the possibility to strategically misbehave are assured (and an appropriate reserve price is in place), auctions should be implemented as the CAM of first choice, as such mechanisms are considered to be the most market-oriented and value-reflecting way of allocating (especially scarce) capacity.

In markets with specific national PSO provisions on storage with respect to, for example, ensuring compliance with gas security of supply obligations, it is noted that SSOs may be required to use alternative allocation arrangements to those recommended in this section to meet those PSOs.

¹¹ As already stated in the ERGEG GST TF Status Reviews 2008 and 2009, FCFS applied by integrated SSOs could prefer the affiliates: FCFS is not non-discriminatory and fair in itself, thus measures have to be set to support non-discrimination and transparency.

2.) The market for the selected product is not tight (demand \leq offer):

If the market for the selected product is not tight (demand \leq offer): Allocation is straightforward. In such a case, allocation should take place via an objective, transparent and a non-discriminatory process. Alternatively, SSOs could use auctions, or some other allocation mechanism that provides a similar level of objectivity, transparency and non-discrimination to allocate the capacity.

3.1.8. Guideline proposal H: NRA power

“Allocation of storage capacity shall be subject to review and ex-ante definition / approval by national regulatory authorities, if deemed necessary [by them].”

Explanation to the proposal

Since regulators – especially in the negotiated access regime – often do not have the power to review, approve, define or at least influence storage CAMs ex-ante, it is proposed to include such a measure to allow for easier resolving of issues related to storage and gas market foreclosure(s).

Stakeholders' feedback

For one respondent this proposal is not acceptable without mentioning any reasons. Another respondent would like to have this proposal deleted as well, as ERGEG does not have the authority to give additional powers to NRAs. They said that in case a Member State has opted for nTPA instead of / besides rTPA it is not acceptable to have regulatory involvement in terms and conditions of storages. In response to the general question (question 10) “to what extent NRAs should be endowed with additional competences in developing CAM and CMP?” most of the stakeholders oppose the idea. Some of the respondents are of the opinion that because of the implementation of the 3rd Package the discussion on additional power is premature.

ERGEG's comment

ERGEG agrees that with the Guidelines no additional power could be given to the NRAs. However, Directive 2009/73/EC, Article 41 (1) n declares that the regulatory authority shall have the duty to “monitoring and reviewing the access conditions to storage” as provided for in Article 33. In the event that the access regime to storage is defined according to Article 33(3), that task shall exclude there viewing of tariffs“. To prevent legal uncertainty (as to whether in the monitoring and reviewing process the NRAs find out that CAM were not in line with the requirements of national and European law) ERGEG would recommend the SSOs to align the CAM details and process with the NRAs in advance.

Final guideline (to be integrated in existing GGPSSO) and explanation

“Allocation of storage capacity shall be subject to ex-ante review by NRAs if deemed necessary by an NRA.”

Since regulators – especially in the negotiated access regime – often do not have the power to review, approve, define or at least influence storage CAMs ex-ante, it is proposed to include such a measure to allow for easier resolving of issues related to storage and gas market foreclosure(s).

3.2. Comments on CMP

In the paragraphs below, ERGEG presents stakeholders' feedback on the specific proposals that have been up for public consultation, followed by ERGEG's comment on the given feedback. ERGEG then presents the final proposal that will be integrated in the existing GGPSSO. If stakeholders have provided feedback on the consultation questions (chapter two) that is also of importance for a specific proposal, a reference to this will be made.

3.2.1. Guideline proposal I: Standardisation of Secondary Markets

“SSOs should organise the implementation and standardisation of secondary markets for storage capacity. SSOs will provide a web-based platform that enables primary customers (without restraining the possibility for bilateral agreements) to sell unused capacity on the secondary market. It should at least enable primary customers to make an anonymous bid (both bundled and unbundled storage capacity) that are visible to third parties. To foster standardisation, published master agreements templates are used and tradable capacity products are defined in alignment with primary capacity products. Furthermore a lead time for the implementation / acceptance / registration of secondary trades is published. A market mechanism should be in place that reflects the value of the offered products so as to stimulate the offering of unused capacity. SSOs connected to the same balancing zones or market areas should cooperate in the implementation and consolidation of secondary markets to improve liquidity. SSOs shall keep a record of all transactions on the secondary market, including the transfer price. The collected information shall be communicated to the NRA on a regular basis.”

Explanation to the proposal

This provision aims to make sure that there is an effective platform available where primary customers can sell their firm capacity on a firm basis to secondary customers. Through an effective mechanism (for example: auction), primary customers have a financial incentive to offer the unused capacity on the secondary market. SSOs connected to the same balancing zones or market areas should cooperate in the implementation and consolidation of secondary markets to improve liquidity.

Stakeholders' feedback

With regard to this specific proposal, one stakeholder agreed with ERGEG that an SSO should make every reasonable effort to the standardisation of secondary markets for storage capacity. However, in their view, an SSO should not be obliged to fulfil this task. Another stakeholder opined that the secondary market should not be operated, influenced or controlled (in any way) by an SSO. Additionally, it was suggested to delete the part of the proposal, suggesting that published master agreements templates are used and tradable capacity products are defined in alignment with primary capacity products (this last suggestion was also proposed by several stakeholders in their feedback on the consultation questions).

It was also suggested to delete the part of the proposal (which was also proposed by several stakeholders in their feedback on the consultation questions) that states that a market mechanism should be in place that reflects the value of the offered products so as to stimulate the offering of unused capacity.

One stakeholder did not agree with ERGEG's statement that an SSO shall keep a record of all transactions on the secondary market, nor with the proposal that this information is to be communicated to an NRA on a regular basis. Another stakeholder did not oppose information to be sent to an NRA, but suggests that this should only be done if requested to do so by an NRA.

ERGEG's comment

For ERGEG, it is important that certain conditions apply as to ensure that the secondary market will have added value for the market. ERGEG therefore agrees that any products that are offered on the secondary market should ultimately fulfil market needs and recognizes that these can vary per market (e.g. due to different balancing regimes). In addition, the offering of standardized products should not hamper the use of a storage facility. However, ERGEG cannot envision why (or how) publishing master agreements templates in order to reach standardization could negatively influence the secondary market.

The Third Package states that NRAs have to monitor the development of energy markets. Hence ERGEG is still of the view that NRAs should understand transactions on the secondary market. Next to that, ERGEG believes that – from a commercial point of view – registration of any transactions is to be expected. Therefore no undue administrative burden is created. ERGEG therefore continues to find that record of all transactions should be kept. However, to reduce “administrative” burden, ERGEG agrees that information should only be provided if an NRA has an actual need for this information and specifically asks for the information.

The secondary market is a “customer market”: its effectiveness should therefore ultimately be the result of the willingness of users to buy or sell storage capacity. As long as the liquidity of the secondary market is adequate, there is no need to introduce a market mechanism that “incentivises” primary capacity holders to offer storage capacity. However, given the importance of the secondary market, ERGEG believes that this should be the case, at least until minimum liquidity is achieved.

Despite stakeholders' feedback, ERGEG is still convinced that SSO should organise the secondary market. In the view of ERGEG, it should be the task of SSOs to facilitate the secondary market: based on Article 22 of Regulation 715/2009, an SSO is to take reasonable steps to ensure and promote that capacity rights can be freely traded on a transparent and non-discriminating way”. However, ERGEG would like to point out that SSOs can delegate this task to a third party that will organise the secondary market and run the day-to-day business. As such, SSOs are responsible, but do not need to organise the secondary market themselves. Although ERGEG continues to stick to the view that SSOs in the same balancing zone should cooperate to set up a (unique common) secondary market (platform), ERGEG would like to clarify that - given the complexity of such a co-operation – relevant NRAs should be involved in the decision making progress.

Final guideline (to be integrated in existing GGPSSO) and explanation

“SSOs should be responsible for the implementation and standardisation of secondary markets for storage capacity. SSOs will provide a web-based platform that enables primary customers (without restraining the possibility for bilateral agreements) to sell unused capacity on the secondary market. It should at least enable primary customers to make an anonymous offer (both bundled and unbundled storage capacity) that is visible to third parties. To foster standardisation, published master agreement templates are used. Furthermore a lead time for the implementation / acceptance / registration of secondary trades is published. In an illiquid market, a market mechanism should be in place that reflects the value of the offered products so as to stimulate the offering of unused capacity. SSOs connected to the same balancing zones or market areas should cooperate (if possible) in the implementation and consolidation of secondary markets to improve liquidity. Relevant NRA will be consulted in the decision making process. SSOs shall keep a record of all transactions on the secondary market. The collected information shall be communicated to the NRA on request.”

This provision aims to make sure that there is an effective platform available where storage customers can trade their firm capacity on a firm basis with other customers. Based on article 22 of Regulation 715/2009, SSOs are to take reasonable steps to ensure and promote that capacity rights can be freely traded on a transparent and non-discriminatory way. As such, an SSO should therefore be responsible for organizing the secondary market, but an SSO can choose to delegate this task to a third party who will organize the secondary market and run the day-to-day business. SSOs connected to the same balancing zones or market areas should cooperate in the implementation and consolidation of secondary markets to improve liquidity. Given the complexity of such a co-operation – relevant NRA’s should be involved in this decision making process. It is important that a secondary market exists for each storage facility (which is the aim of this guideline), but the higher aim should be that eventually a national platform is founded where all storage capacity in the market can be traded.

3.2.2. Guideline proposal J: Standardisation of Terms and Conditions

“The terms and conditions for access to a storage, operation of the site for both the secondary market and interruptible products should be standardized, timely accessible for (potential) customers and published at least on the internet in both English and local language.”

Explanation to the proposal

This provision aims to make sure that the content of storage contracts (including general terms & conditions) is known by (potential) customers who are interested in booking storage capacity. If these conditions are not known in a timely manner, a customer cannot make a good judgement whether it is (commercially) interesting to book storage capacity. Transparency is thus of utmost importance.

Stakeholders' feedback

With regard to this specific proposal, one stakeholder is of the opinion that the choice to provide information in the local language should be a decision by the SSO. Another respondent suggests standardising only the operation of the site for interruptible products and not (as proposed by ERGEG) the secondary market. In chapter three, it was already explained that, in general, stakeholders support the idea of standardising processes (e.g. terms and conditions).

ERGEG's comment

To ERGEG it is important that a customer can make a good judgement whether it is (commercially) interesting to book storage capacity if terms and conditions are not known in advance. It is not clear why standardisation (and thus creating transparency) regarding terms and conditions should only apply to interruptible capacity and not to the secondary market: in both situations a user, considering buying storage capacity, should have the possibility to make a well balanced decision in advance.

ERGEG is of the opinion that storage users in one internal market very often include international companies (that do not always have (ability to hire the) personnel that speak the national languages of all the storage operators of the EU), and that any information that is provided by an SSO (such as terms and conditions for access to a storage) should be published in English. However, ERGEG sees no reason why such information in addition should not be published in the local language.

Final guideline (to be integrated in existing GGPSSO) and explanation

“The terms and conditions for access to storage and the processes for operating the secondary market and appliance for interruptible products should be standardized, timely accessible for (potential) customers and published at least on the internet in both English and local language.”

This provision aims to make sure that the content of storage contracts (including general terms & conditions) is known by (potential) customers who are interested in booking storage capacity. If these conditions are not known in a timely manner, a customer cannot make a good judgement whether it is (commercially) interesting to book storage capacity. Transparency is thus of utmost importance.

Given the fact that storage users in one internal market very often include international companies (that do not always have personnel that speak the national languages of all the storage operators of the EU), any information that is provided by an SSO should also be published in English.

3.2.3. Guideline proposal K: Renomination and unused capacity

“A primary customer makes, at best effort, a timely nomination to the SSO on the capacity that will be used. In case a primary customer, holding a significant part of capacity, has not made a nomination on a specified date, the involved SSO will (since the Regulation 715/2009 says that the SSO must offer unused capacity at least on a day-ahead and interruptible basis) ask this primary customer to relinquish its renomination right by selling back capacity to the SSO and offer the unused capacity on the secondary market on firm basis or SSO will offer non-nominated capacity on interruptible basis.”

Explanation to the proposal

This provision aims to make sure that SSOs have a clear sight on any capacity that is nominated by a primary customer and complies with Regulation 715/2009. Thus, SSOs can make a timely judgement whether a primary customer should offer unused capacity on the secondary market or unused capacity can be (partly) offered as interruptible. The timing of the best efforts nomination should allow for quarterly, monthly, weekly and daily preview to SSO on capacity use.

Stakeholders' feedback

One stakeholder agrees with the idea of improving the release of unused capacity. However, to make it work, the ERGEG proposal should be more clarified on several aspects, especially in terms of delays (what is meant by “timely” or “specific date”?). The ERGEG proposal should not allow the SSO to define on his own the conditions and rules of release or loss of shipper's capacities. Another stakeholder is afraid that users would be treated differently and a buy back obligation for SSO would negatively effect investments and cash flow predictions.

Another respondent points out that firm UIOLI regulations are not compatible with Security of Supply demand and that it is therefore not in favour of a buy back by the SSO. As such, it is suggested to only state that an SSO will offer non nominated capacity on an interruptible basis (day-ahead) if a (primary) customer has not made a timely nomination. For one respondent the proposed text appears to confuse the issues of firm and interruptible capacity rights. In order to comply with the 2009 Gas Regulation, the storage operator must offer unused storage capacity on the primary market at least on a day ahead and interruptible basis. This legal requirement refers to interruptible UIOLI. Because the capacity rights are interruptible, the storage operator does not require the primary capacity holder to relinquish its renomination rights by selling back capacity to the operator. The primary capacity holder retains these renomination rights; the nomination made by the interruptible capacity right holder only stands if the owner of the (primary) firm capacity rights does not re-nominate an increased use of his capacity.

Another respondent stated that SSOs do not want to buy back capacity from users as this would give shippers an ‘un-contractual’ possibility to exit existing contracts. Such a possibility would have a negative effect on the stability of future cash flows and lead to a smaller appetite for investment. It is therefore suggested to delete the part of the proposal that describes the buy back.

ERGEG’s comment

To improve the utilisation of a storage facility, SSOs should timely make a fair prediction what storage capacity can be offered on an interruptible basis so that potential customers can make a timely decision whether they are interested or not to buying interruptible capacity. Such a timely and fair prediction can only be made by an SSO if primary capacity holders timely consider their **expected need** for gas flows (“timely” meaning earlier than the latest possible official nomination time, usually one day before the gas flow day). In the view of ERGEG, this can be done through an early initial nomination¹². As such, primary capacity holders are stimulated to start acting more proactively as to determine whether storage capacity is really **needed** by the user. In the view of ERGEG, SSOs play an important role in this process.

ERGEG concludes that the idea of a timely nomination (through an initial nomination) is supported, but that it is in certain cases questionable if a (primary) capacity holder can give sufficient clarity on the intended utilisation of (primary) firm storage capacity on a quarterly (or even monthly) basis. Based on stakeholders’ input, it seems that a primary capacity holder would be, in general, in the position to make a timely initial nomination **at least a week ahead** to an SSO with regard to the actual storage capacity that is needed on the actual gas flow day.

Regulation 715/2009 instructs SSOs to offer unused capacity – without delay – on the primary market (at least day ahead and on an interruptible basis). ERGEG does not want to enforce rules on SSOs that could possibly have a detrimental effect on, e.g., the stability of cash flows. As already stated in chapter three, a buy back should therefore only be performed by SSOs if there is an actual need for this service and a commitment to buy capacity immediately. Although this is likely to mitigate the financial risk, it should remain up to the SSO whether to perform a buy back or not. Although ERGEG continues to be of the view that a buy back can be performed by an SSO, it has chosen to transfer this part of to proposal G, for clarity reasons.

Final guideline (to be integrated in existing GGPSSO) and explanation

“A primary customer makes, at best effort, a timely nomination to the SSO on the capacity that will be used. An SSO will make best efforts to stimulate and facilitate primary customers to do so.”

¹² In several Storage Services Contracts that ERGEG has checked, a primary capacity holder can start to make initial nominations 45 days before the actual gas flow day until the start of the official nomination period. Making an initial nomination should therefore (at least from a contractual point of view) be no problem.

*This provision aims to make sure that SSOs have a clear sight on any capacity that is nominated by a primary customer. This will allow the SSO to make a timely and fair prediction of any “unused” capacity (that is marketable on an interruptible basis) so that potential customers can make a timely decision whether they are interested in buying interruptible capacity or not. Such a timely and fair prediction can only be made by an SSO if primary capacity holders timely consider their **expected need** for gas flows / capacity utilisations (“timely meaning earlier than the latest possible official nomination time, usually one day before the gas flow day). A primary customer should therefore, at best effort, make a timely nomination (through an initial nomination), but the timing of the best efforts nomination should at least allow for a weekly preview to SSO on capacity use.*

3.2.4. Guideline proposal L: Dynamic Capacity Calculation

“Based on the received nominations and their own forecast, SSOs shall strive to maximise Interruptible capacity products offer on a short-term basis, and in particular, on a daily basis (comment: the Regulation requires SSOs to offer unused capacity on at least a day-ahead and interruptible basis) by dynamically calculating available capacities taking into account actual temperatures, counter-flow nominations, any other information means available influencing capacity use.”

Explanation to the proposal

This provision aims at maximising short-term capacity offers to the market, because visibility of actual available storage capacity is better, closer towards the date and time of use. This should be in the interest of both SSOs, that can maximise the selling of their services, and users, that can benefit from a higher availability of storage services at least on a short-term basis (quarterly, monthly, weekly, daily).

Stakeholders’ feedback

Two stakeholders have suggested to change the proposal, indicating that an SSO does not have the information available to predict user behaviour. In their view, interruptible deals and demand forecasts are by its nature more a business for users amongst each other. Only in the case where storage users do not make use of their entire firm capacities could SSOs offer whole bundles (send-in, storage, send-out) on an interruptible basis. Unused firm capacity can be offered as interruptible bundles if not all firm injection and withdrawal capacity as well as WGV have been nominated for the same time period.

ERGEG’s comment

EREG recognizes that an SSO does not have the ability to precisely predict primary capacity holders' behaviour. However, it seems unlikely that an SSO would not be able to make any prediction (as some have suggested) on the expected use of capacity by primary capacity holders. EREG expects that SSOs should have sufficient experience and data regarding historical flow behaviour that they can use to make a prediction.

Additionally, as the actual gas day comes closer it seems evident that an SSO has more reliable data on (counter)flow nominations, enabling them to dynamically calculate how much storage capacity can be offered on an interruptible basis. EREG underlines that an SSO – based on article 17 of Regulation 715/2009 – is only obliged to offer any **unused** capacity on an interruptible basis. Thus the primary capacity holder will not lose capacity if an SSO has made a too “optimistic” prediction. For EREG, dynamically calculating available capacities is of importance (as to ensure that a storage facility is efficiently used) and EREG is of the view that the mentioned criteria play an important role in this process.

Final guideline (to be integrated in existing GGPSSO) and explanation

“Based on the received nominations and their own forecast, SSOs shall strive to maximise the interruptible capacity products offer (at least on a day ahead basis but preferably on a longer term basis) by dynamically calculating available capacities taking into account actual temperatures, counter-flow nominations, any other information means available influencing capacity use. Based on dynamic calculations, SSOs may decide to perform a buy back of capacity if there is an actual need for this service and commitment of a user to contract this capacity immediately.”

This provision aims at maximising short-term capacity offers to the market, because visibility of actually available storage capacity is better, the closer the date and time of use is. It is expected that SSOs by experience have data regarding historical flow behaviour and that this information (among other information) can be used to make a prediction. This should both be in the interest of SSOs, that can maximise the selling of their services and users, that can benefit from a higher availability of storage services at least on a short-term basis (quarterly, monthly, weekly, daily).

3.2.5. Guideline proposal M: Optimal use of storage and corresponding products

“SSOs will offer a reasonable amount of interruptible capacity on a (short) term and interruptible basis and with a balanced mix of contract duration. Any unused capacity will be sold in both unbundled and bundled products. The design of products should be (cross border) consulted with current and potential customers. Offered products should not be customized too much as to prevent “1 user only fit”.”

Explanation to the proposal

Through this provision, SSOs will offer any **unused** capacity so as to make sure that the storage capacity is optimally used and that the selling (and revenues) of any capacity is maximised. SSOs should offer bundled products (consisting of fixed proportions of injection, volume and emission) so as to make sure that market newcomers can use storage.

Stakeholders' feedback

One respondent agrees with ERGEG that the design of products should not be customised to such an extent that they only suit the needs of one user. Additionally the design should not depend on the behaviour of a major user (potentially a dominant incumbent company), for example by making a service available only when aggregated flows exceed a minimum level. From this respondent's point of view, such restrictions should be dependent solely on the technical/operational limitation of the facility.

Another stakeholder (interest group) agrees and points out that the nature of storage services limits the possibilities to offer interruptible services, especially bundled services. Because of the right of renomination, the part of unused capacity that should be offered as interruptible could vary from one hour to another. Moreover, interruptible volume is often not an option when the stock level has reached a certain percentage. This should not limit the offering of injection and withdrawal capacity on interruptible basis.

ERGEG's comment

From a market point of view, ERGEG finds it important that SSOs offer both bundled and unbundled products on an interruptible basis (as to ensure that storage capacity is fully used). However, ERGEG understands the argument that the offering of bundled products may not always be possible due to legal (re-nomination rights) and/ or operational/ technical (stock level) dependencies. ERGEG also fully agrees that any offered products should not be customized to one (dominant) user. Therefore, ERGEG will emphasise in the proposal that limitations in offering bundled products should only be the result of legal and/ or operational dependencies and not be customized to fit one (dominant) user.

Final guideline (to be integrated in existing GGPSSO) and explanation

“SSO’s will offer a reasonable amount of interruptible capacity on a short term and interruptible basis and with a balanced mix of contract duration. Any unused capacity will be sold in both unbundled and bundled products. The design of products should be consulted with current and potential customers. Offered products should not be customized too much as to prevent “1 user only fit” and any limitations in offering products should only be the result of legal, operational or technical dependencies.”

Through this provision, SSOs will offer any **unused** capacity so as to make sure that the storage capacity is optimally used and that the selling (and revenues) of any capacity is maximised. SSOs should offer both unbundled and bundled products (consisting of fixed proportions of injection capacity, working gas volume and withdrawal capacity) so as to make sure that market players can use storage. The offering of bundled products may not always be possible e.g. due to legal (re-nomination rights) and/ or operational/ technical (stock level) dependencies. However, limitations in offering bundled products should only be the result of such legal and/ or operational dependencies and products should not be customized to fit one (dominant) user.

3.2.6. Guideline proposal N: Information on non-nominated capacity

“Information on the amount of non-nominated storage capacity should be provided by the SSOs on a day-ahead basis and the already sold day-ahead interruptible products. Similar best effort should preferably apply to longer outlooks. The data should be published on a website in time series (both for unbundled and bundled services) preferably close to real-time. Also historical data on (not) booked capacity should be published as to make an estimate of the probability of interruption.”

Explanation of the proposal

By applying this rule, (un)bundled storage capacity that is not (yet) (re-)nominated on a short term basis will be made more transparent and therefore can easier be accessed and used by third parties via interruptible capacity. This measure can help – to a limited extent – to ease the problem of congestion at least on a short term basis. Concerning publication of non-nominated capacity, it is preferred to update the data close to real-time, because re-nominations can occur on a very short notice. Therefore, providing this information in time series (e.g. in a table with additional entries for every half hour) can give holders of interruptible capacity better transparency on the value (probability of interruption) of their interruptible capacity products. The procedure in the event of an interruption of interruptible capacity, including, where applicable, the timing, extent and ranking of individual interruptions should also be published.

Stakeholders' feedback

With regard to this specific proposal, one stakeholder has suggested to discuss this point in more detail with storage users. Another stakeholder has indicated that it is not clear what information on “non nominated capacity at longer outlooks” refers to; nomination is not required to be made until day ahead.

ERGEG's comment

The aim of this proposal is to ensure that potential customers receive information in such a way that they can easily determine whether it is interesting to buy interruptible capacity or not. Although an SSO is only obliged to offer any non-nominated capacity on (at least) a day ahead basis to the primary market, ERGEG is of the view that an SSO should do its best to provide

information on longer outlooks. As already indicated in this document, this could help potential customers to timely consider whether it is interesting to buy interruptible capacity or not.

Final guideline (to be integrated in existing GGPSSO) and explanation

“Information on the amount of non-nominated storage capacity should be provided by the SSOs on a day-ahead basis and the already sold day-ahead interruptible products. Similar best effort should preferably apply to longer outlooks. The data should be published on a website in time series (both for unbundled and bundled services) preferably close to real-time. Also historical data on (not) booked capacity should be published as to make an estimate of the probability of interruption.”

By applying this rule, (un)bundled storage capacity that is not (yet) (re-)nominated on a short term basis will be made more transparent and therefore can easier be accessed and used by third parties via interruptible capacity. This measure can help – only to a limited extent – to ease the problem of congestion at least on a short term basis. Concerning publication of non-nominated capacity, it is preferred to update the data close to real-time, because re-nominations can occur on a very short notice. Therefore, providing this information in time series (e.g. in a table with additional entries for every half hour) can give holders of interruptible capacity better transparency on the value (probability of interruption) of their interruptible capacity products. The procedure in the event of an interruption of interruptible capacity, including, where applicable, the timing, extent and ranking of individual interruptions should also be published.

3.2.7. Guideline proposal O: Transfer of Working Gas

“SSOs will take efforts to facilitate the transfer of working gas between a primary and secondary customer at the start and end of the duration of the interruptible or firm (bought at secondary market) contract. In case of a working gas transfer, the price should be market-based.”

Explanation to the proposal

A primary customer will already have a certain amount of gas-in-storage (working volume). Without a proper arrangement, this gas should first be retracted from the storage before the secondary customer can inject gas. Through this provision, a secondary customer is ensured that gas can be retracted immediately once the contract period starts. At the end of the interruptible contract, the customer might need to reinject gas, so original user can start using storage immediately.

Stakeholders' feedback

Three stakeholders wish to have the last sentence of this proposal deleted, as the transfer price is a matter of the deal between users and not capable of being influenced by the SSOs. One respondent stated that the wording is not clear up to the last sentence, as the secondary market cannot be operated/influenced/controlled by the SSO.

ERGEG's comment

ERGEG recognises that gas in storage is owned by the primary capacity holder and that it is up to the primary capacity holder to determine at what price this gas will be sold. As such, a primary capacity holder cannot be forced (by an SSO) to sell gas in storage under certain conditions or under certain principles. Also, transfer of gas in storage is not a product that an SSO is to offer on the secondary market. Despite this, ERGEG is of the view that the transfer of working gas should not bounce due to unreasonable high prices and an SSO can do its best to facilitate the transfer of gas in storage. The price in case a transfer of working gas should therefore be *ideally* market based.

Final guideline (to be integrated in existing GGPSSO) and explanation

“SSOs will take efforts to facilitate the transfer of working gas of the same storage facility between a primary and secondary customer at the start and end of the duration of the interruptible or firm (bought at secondary market) contract. In case of a working gas transfer, the price should be ideally market-based.”

A primary customer will already have a certain amount of gas-in-storage (working volume). Without a proper arrangement, this gas should first be retracted from the storage before the secondary customer can inject gas. Through this provision, a secondary customer is ensured that gas can be retracted immediately once the contract period starts (through a transfer of gas-in-storage). At the end of the interruptible contract, the customer might need to reinject gas, so original user can start using storage immediately. Given its importance, the transfer of working gas should not bounce due to unreasonable high prices and an SSO can do its best to facilitate the transfer of gas in storage. The price in case a transfer of working gas should therefore be ideally market based.

3.2.8. Guideline proposal P: Pricing methods

“The price for interruptible capacity that a secondary customer should pay reflects the probability of interruption. Other pricing methods, incentivising active storage capacity use – like ‘auctions’ and ‘pay as used’ - can be used if storage prices are not regulated.”

Explanation to the proposal

Article 15 (2a) of the Regulation 715/2009 states that the price for interruptible capacity is to reflect the probability of interruption. In addition, Article 1 of the same Regulation suggests that storage price principles are not harmonised. A customary option is to use a method where interruptible storage price contains a discount, reflecting the probability of interruption. Another option to promote active storage capacity use, is to use the “pay as used“ method. The use of an auction (under the appropriate circumstances, determined by NRA) is also a possibility. In “pay as used” method the SSO is incentivised to create attractive products, which will be used, as SSO is only paid per withdrawn or injected commodity. With “auctions” congestion revenues might be generated.

Stakeholders' feedback

One stakeholder wants to have this whole proposal deleted without mentioning any reasons.

ERGEG's comment

ERGEG shall only state (as already referred in chapter three) that the pricing strategy pay-as-used can be used by an SSO when selling interruptible capacity. For clarification: ERGEG emphasizes that pay-as-used does not determine the actual price to be paid (it only means a price is paid if interruptible storage capacity is actually used and can be paid per used unit of storage instead of a fixed fee).

Final guideline (to be integrated in existing GGPSSO) and explanation

“The price for interruptible capacity that a secondary customer should pay reflects the probability of interruption. Other pricing methods, incentivising active storage capacity use – like ‘auctions’ and ‘pay as used’ - can be used if storage prices are not regulated.”

Article 15 (2a) of the Regulation 715/2009 states that the price for interruptible capacity is to reflect the probability of interruption. In addition, Article 1 of the same Regulation suggests that storage price principles are not harmonised. A customary option is to use a method where interruptible storage price contains a discount, reflecting the probability of interruption. Another option to promote active storage capacity use, is to use the “pay as used“ method. The use of an auction (under the appropriate circumstances, determined by NRA) is also a possibility. In “pay as used” method the SSO is incentivised to create attractive products, which will be used, as SSO is only paid per withdrawn or injected commodity. In “auctions” attractive congestion revenues can be generated.

3.2.9. Guideline proposal Q: Aggregation and overcoming technical constraints

“In case a storage facility has a high minimal flow and/or other technical constraints for relatively small users, SSOs will use reasonable endeavours to aggregate customers nominations and/or to administratively approach the largest user with request to flow gas

to overcome the technical constraints of the storage.”

Explanation to the proposal

Customers who need to flow a small amount of gas will have difficulty to do so if the minimum flow is high. Through this provision, SSOs will make sure that any technical difficulties regarding deliverability are overcome and that every customer can flow gas at any moment.

Stakeholders' feedback

Two respondents point out that storage users should not be restricted in their storage rights and that minimum flow rates should only be in place for technical/operational reasons of the particular facility. Where such restrictions are in place, these should apply to the aggregated flow volumes and not on a per user level. Where minimum flow levels do apply and the aggregated nominations are below this minimum level, one way for the storage operator to continue to offer a service is through a 'virtual storage product' to be delivered at a hub.

ERGEG's comment

For ERGEG, it is important that a customer can ultimately make use of a storage facility at any time it is needed. Although under certain circumstances this may not be guaranteed, ERGEG is of the opinion that, in the case of minimal flow and/ or technical constraints, an SSO should continue offering its service to each of its customers. This could be done in a number of ways (such as offering a virtual storage product backed up by multiple sources of flexibility or e.g. contracting access to linepack with adjacent TSO to overcome minimum flow constraints) and ERGEG leaves it up to an SSO to decide what measure is best practice in that respect.

Final guideline (to be integrated in existing GGPSSO) and explanation

“In case a storage facility has a high minimal flow and/or other technical constraints for relatively small users, SSOs will use reasonable endeavours to aggregate customers' nominations. If aggregated nominations - despite these reasonable endeavours - are below the minimal flow level, SSOs shall offer a service that allows a customer to continue to use a storage facility (e.g. by offering a virtual storage product).”

Customers who need to flow a small amount of gas will have difficulty to do so if the minimum flow is high. Through this provision, an SSO (in the case of minimal flow and/ or technical constraints) should do its utmost best to continue offering its service to customers. This could be done in a number of ways (such as offering a virtual storage product backed up by multiple sources of flexibility or e.g. contracting access to linepack with adjacent TSO to overcome minimum flow constraints). It is up to an SSO to decide what measure is best practice in that respect.

3.2.10. Guideline proposal R: Effective congestion management to prevent capacity hoarding

This guideline proposal enhances the already existing point 4.5. from the GGPSSO, March 2005¹³

4.5 new proposal: If, in spite of all measures aimed at optimal capacity (re-)marketing and efficient utilisation, capacity remains unused and if significant and prolonged contractual congestion occurs, the national regulatory authority may define and introduce more detailed measures/provisions to effectively manage congestions, to ensure efficient capacity use in the above mentioned sense and to prevent capacity hoarding.

Explanation to the proposal

This rule gives NRAs (especially in negotiated third party access systems, where ex-ante regulatory powers of NRAs are non-existent or at a very low level) the regulatory powers to introduce nationally adapted measures to deal with congestion. An example of such a measure could be a cautious restriction of re-nomination rights (where existent) of withdrawal/injection rates and (a limited) day-ahead offer of firm storage services [comparable to currently discussed CMPs at interconnection points].

Stakeholders' feedback

Three stakeholders stated that this guideline should remain as it is in the 2005 version of the GGPSSO respectively be deleted, as ERGEG does not have the authority to give additional powers to NRA's as mentioned in the new guideline proposal above. One of them welcomes the suggestion contained within the new text, but sees no possibility in awarding legal power to NRAs by a voluntary set of guidelines.

ERGEG's comment

ERGEG recognizes that NRAs are not in the position to impose additional powers through the GGPSSO that can be used to introduce more detailed measures/ provisions to effectively manage congestions. With the amendment of the existing GGPSSO, NRAs have in essence already introduced more detailed measures as to effectively manage congestions. As such, this proposal does not seem to have much value anymore.

Final guideline (to be integrated in existing GGPSSO) and explanation

¹³ GGPSSO, point 4.5 says that: "If, in spite of all measures aimed at preventing capacity hoarding, capacity remains unused and significant and prolonged contractual congestion occurs, the relevant national regulatory authority may according to national law introduce measures to ensure the efficient functioning of the market, including the efficient use of storage capacity."

Changes Deleted – Guideline remains unmodified.