

**Response to the consultation paper of CESR-ERGEG  
regarding the advice to the European Commission  
on record keeping, transparency and exchange of information**

Altergaz welcomes the opportunity to provide its views on the consultation paper jointly developed by CESR and ERGEG. Altergaz believes its answer can provide some information on how small new entrants perceive these issues.

**Altergaz in brief**

Altergaz is a French gas supplier, selling gas to end customers (domestic, SME and industrial customers) and also active on the French wholesale market. Altergaz has been in operations since 2005. It is currently employing more than 50 people and its 2008 turnover should be around 250 millions euro.

**Introduction**

As a general comment, Altergaz notes that much of the paper focuses on the consistency of energy legislation and financial legislation, the different constraints they impose on market players and the respective powers of energy and financial regulators. While these legal points are of interest, they should however be secondary to the overarching goal, which is to provide energy market players and regulators the tools needed to be efficient in their activities.

Where current legislation is an obstacle to achieving this goal, a revision of the legislation should be considered.

**Q1. Do you agree with the abovementioned analysis of the purpose of record-keeping obligations for supply undertakings in the Third Energy Package? If not please explain your reasons.**

Altergaz agrees with the analysis of the purpose of record keeping.

However even if we believe that Option b) is the most appropriate of the 3 options mentioned, as it is the one that provides the most uniform approach, it still does not impose any obligations on firms trading only cash settled instruments. As these instruments play the same role as physical instruments in the price formation process, this exclusion is undoubtedly a hurdle to competition investigations on the price formation process.

**Q2. Taking into account the potential purposes of record-keeping requirements under the Third Energy Package, do you agree with the above mentioned minimum contents for records to be kept by supply undertakings?**

Altergaz agrees with the minimum content for records. Altergaz also believes this could be the maximum content, as all useful pieces of information seem to be included in the list provided.

However it should be noted that the precision of the trading time information will be different according to the trading venue. Indeed for a product traded on an electronic platform, trading time will be precise to the second, while for a trade conducted over the phone, some flexibility should be accepted, also because the trade might not be recorded straight away.

**Q3. If not, please specify the items not necessary or additional items necessary with respective reasons.**

N/A

**Q4. Do you see practical difficulties if investment firms not covered by the scope of the Third Energy Package are not obliged to keep the additional contents of transactions in financial instruments in their records?**

Altergaz believes the obligations should be the same to all parties in the energy markets. Otherwise, the regulatory gap might enable some companies to profit from less regulation.

**Q5. Which option do you think is most efficient for the purposes of the Third Energy Package?**

Altergaz thinks the solution lies between Options 1 and 2. More precisely, Altergaz believes that the regulation should not focus on the format of the records kept, but on the format of the records that might be required by the competent authorities.

Indeed, it might be cumbersome to oblige the suppliers to change the way they keep the records. However it would be acceptable to oblige the suppliers to be able to export their data in a common format, that would be imposed.

In summary, a electronic format should be imposed but not for the records kept. This enables limited changes to the current systems.

**Q6. If an electronic format will be required, is it sufficient to leave the design of the specific kind of “database” used to retain the minimum content of the records to each supply undertaking?**

Yes. See answer to Q5.

**Q7. If possible, please provide indications of the specific costs involved with different electronic formats conceivable (e.g. from Excel sheet to more sophisticated software).**

From our experience, the cost of setting up from scratch a minimal software that would allow recording the minimum contents mentioned above is in the range 20-40 k€.

Additional costs will however be incurred as this software will need to be integrated with other company softwares.

**Q8. Do you see a need for a harmonised publication of aggregate market data on an EU/EEA level? Please provide your arguments for/against such publication.**

Altergaz is only active in the French market at the moment. However when it considers operating in other countries in the future, an harmonised publication would be preferable for the sake of simplicity.

**Q9. Do you consider that this publication should cover all instruments, including those covered by MiFID?**

Yes. Again, the goal is to provide a complete view of the market that enables companies to make informed decisions.

**Q10. Among the information proposed to be published, which ones are the most useful and why? Which one(s) should be published?**

Volumes information are probably the most useful as they are the less transparent today. Namely the OTC share of gas volumes traded is unknown in many markets, especially France, even from commercial providers.

On the contrary, prices are available from these commercial providers, although at a cost and on a limited share of the market.

**Q11. Are the two levels of aggregation on products proposed appropriate and useful?**

The difference between the two levels is unclear to us. It is our understanding that the first level could also include bespoke products. In any case, we favour the second level of aggregation, i.e. aggregation per standardised product.

**Q12. Among the options proposed for the level of aggregation during the period covered, which ones are the most useful and why? Which one should be chosen?**

Altergaz thinks a monthly aggregation would be useful and enables a balance between the burden to information providers and the benefits to the market.

**Q13. Among the options proposed for the frequency of publication, which ones are the most useful and why? Which one should be chosen?**

Altergaz thinks a monthly publication would be useful. However for it to be useful, publication should occur in a short framework after the end of the month under review (less than one month in any case).

**Q14. Do you consider that, in practice, as far as transactions in energy related products are concerned, distortion of competition may result from unequal access to or lack of transaction information? Please provide evidence for your agreement or disagreement.**

While it may be too strong to talk about distortion of competition, the incompleteness of transaction information is probably a factor that slows the market opening process. As an illustration, it should be noted that the number of wholesale market participants generally increase when an exchange is launched. In our view, this is partly due to the transparency provided by the exchange, both on prices and volumes.

**Q15. Do you agree with the results of the fact finding exercises and their analysis for the electricity and gas markets as described above? If not, please provide reasons for your disagreement.**

We share most of the analysis. However we do not fully agree with some results of the fact finding exercises.

It is our view that in the French market, a significant part of the transactions are conducted outside brokers and therefore published by any platform. The “complex energy transactions” are totally unknown to us.

**Q16. Is there any part of the electricity and gas markets (either spot or energy derivatives trading) where there is lack of pre- and post-trade information which affects the efficiency of those markets or a part of them? In any case, please provide examples and your reasoning.**

Altergaz believes the needs for the market are *ex post* aggregate information about volumes and prices (see above for rationale).

Regarding individual trade transparency (pre or post trade), we do not feel a need for additional transparency. In any case, should such kind of measure be decided upon, it should ensure anonymity and be restricted to standardised contract (like the type of pre and post trade transparency available on most exchanges).

**Q18. Do you favour the status quo? Please provide reasons for your opinion?**

**Q19. Do you favour a key principles approach? If so, what characteristics should it have?**

**Q20. Do you favour a more comprehensive regime/initiative? If so, what would be its characteristics?**

See Q16.

Experience in the past has proven that for key principles to be effective there needs to be some kind of obligation to respect the principles. Indeed the GGP-IMT of 2006 had even set some fairly specific indicators which have yet to be applied in many countries.

So any new approach should be prescriptive for it to be useful. In this context harmonising the data collection processes in the various countries would make sense.

**Q21. Do you agree with the preliminary analysis included in paragraphs (a) to (e)?**

Altergaz shares most of the preliminary analysis. Yet Altergaz wishes to stress that additional transparency would not impact liquidity as long as anonymity is guaranteed.

**Q22. What other views do you have on the matters covered in this section on trade transparency?**

N/A

**Q23. Do you agree with the exchange of information between securities and energy regulators only on a case-by-case basis instead of a periodical and automatic exchange of information?**

From our perspective, the choice of case-by-case versus automatic exchange should depend on what the data are used for.

If the data are used only for competition investigations then case-by-case exchange might be enough. If the data are necessary for periodic transparency provisions, then a case-by-case basis would obviously be inefficient.

**Q24. Do you agree with the proposal of the establishment of multilateral and bilateral agreements between energy and securities regulators for exchanging information on cross-border and local basis respectively?**

Yes.

**Q25. Which securities regulator would you prefer to be responsible for providing the information required by the energy regulators regarding the transactions of a branch of an investment firm: the host Member State securities regulator of the branch or the home Member State securities regulator of the investment firm?**

The host Member State securities regulator of the branch is probably a better option as there usually are already contacts between these two regulators and they both have a knowledge of the national energy markets they are supervising.