

EuroPEX

Association of European
Power Exchanges



EuroPEX Position Paper on the Third EU Electricity Legislative Package

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EuroPEX is a not-for-profit association of European power exchanges that represents the interests of the exchange based wholesale markets for electrical energy with regard to developments of the European regulatory framework for wholesale energy trading and provides a discussion platform on a European level.

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Methodology:

Part one of this Position Paper (“General Comments”) presents EuroPEX views on the Third EU Electricity Legislative Package as a whole. Part two of the paper (“Specific Amendments”) provides more specific amendments for each of the applicable legislative proposal separately; where relevant some points of the General Comments are referred to as justifications to these specific amendments.

I. General Comments

Introduction

1. EuroPEX members are committed to the objective of creating a more transparent, efficient and integrated energy market.
2. Through the development of market-based, anonymous and financially secured trading solutions, Power Exchanges' (PXs) deliver essential tools for the management of physical and financial risks, while enhancing the transparency and the security of the energy market.
3. PXs are also major actors in the emergence of a Single Electricity Market. Through EuroPEX, they actively take part in the Florence Forum process, where they have presented and supported innovative market-based congestion management mechanisms such as Market Coupling. During the last Florence Forum, EuroPEX and ETSO have been mandated to produce a discussion paper to address the implementation of regional and interregional capacity allocation methods, on which PXs are currently working. Finally, PXs are very much involved in the development of regional cooperation through the Electricity Regional Initiatives of the ERGEG.
4. EuroPEX welcomes the Third Energy Package released by the EU Commission. This proposal is an important signal for further work towards a more integrated and efficient European electricity market.
5. EuroPEX acknowledges more specifically the efforts made in developing a more encompassing governance structure of the market at a European level, as well as a more precise regulatory framework for market transparency. This range of measures will help breaching the regulatory gap that exists currently in the management of cross-border issues.
6. On behalf of its members, EuroPEX would like to comment and propose amendments to the Third Energy Package proposed by the Commission. Those comments aim mainly at clarifying some elements of the legislative proposal which may lack precision and could be improved towards more transparency and balance of powers between the actors of the energy sector.

Governance Framework

7. EuroPEX acknowledges the need identified by the Commission to breach the regulatory gap in the management of cross-border issues. Although Regulators, TSOs (including other entities outside TSOs where not all the applicable functions – see point 14 – are performed by TSOs) and market parties have been so far active cooperating for the harmonisation and the integration of markets, it is clear that these voluntary initiatives have not reached yet the goal of establishing a seamless European electricity market.
8. The more serious obstacles for markets integration might lie at the interregional level. This issue has notably been assessed by the ERGEG public consultation launched in July 2007 ("*ERI Convergence and Coherence Report*"). Given the variety and the number of parties involved, the

good coordination of the various regional initiatives is particularly challenging: this requires thus a solid and coherent governance framework.

9. Generally speaking, the proposals aiming at harmonising and strengthening the power of National Regulatory Authorities (NRAs) are positive. PXs support the idea that the efficiency of energy markets is conditioned to a genuine, fair and independent surveillance.
10. More specifically, cooperation of NRAs with each other and with the Agency on cross-border issues should be as close as possible, in order to strengthen the process of markets integration. Indeed, markets integration requires that the involvement of NRAs is well-coordinated, in order to allow a coherent sequencing in the implementation of regional initiatives. Mandatory Guidelines to the Directive should specifically assess this issue to ensure that initiatives of markets integration benefit from a coherent leadership at the regional and interregional level.
11. The establishment of an enhanced European Network of TSOs (ENTSO), supervised by an Agency for the Cooperation of Energy Regulators (ACER), is positive: this will provide the market with a more encompassing governance framework. Moreover, the scope of functions entrusted with individual TSOs in relation to the transmission system operations and grid access related functions vary substantially from country to country: consequently, where certain applicable functions (see point 14) are performed by entities outside TSOs, these entities should also be included in the ENTSO cooperation (the assigned competences of the ENTSO members within this cooperation framework reflecting their respective actual transmission system operations and grid access functions). Presently, 7 such entities (of which 4 are also Power Exchanges) share the transmission system operations and grid access related functions with the 33 TSOs of the European Member States.
12. However, there are some concerns regarding the detail of the competences attributed to these two new entities of the Energy Package - the ENTSO and the ACER. In particular, the competences of the ENTSO in terms of setting the “market and technical codes” are unclear, and deserve to be better specified.
13. The scope itself of the term “market rules” is very large and potentially encompasses both issues that are clearly relevant to TSOs and issues that relate to commercial arrangements between market participants.
14. More precisely, the scope of the codes in charge of the ENTSO should be limited to the specific tasks related to transmission system operations and grid access related functions. We identify these specific competences as being the following:
 - The technical procedures for the management of the grid (security and reliability rules, operational procedures in an emergency, energy efficiency regarding electricity networks)
 - The commercial rules specific to the management and the access of the grid (grid connection and access rules, interoperability rules, balancing and reserve power rules, dispatching mechanisms rules including market-based dispatching mechanisms, transportation tariff structures, data exchange and settlement rules)

Other rules fall partially within the scope of TSOs' competences, but should imply a closer involvement of the ACER and PXs in their drafting and their implementation, since they also have a direct impact on the latter core business and competences. We identify these areas of shared competences as being the following:

- Capacity allocation and congestion management rules
- Gate closure times in case of implicit mechanisms
- Transparency rules when information relates to generation, transport / distribution or consumption (as opposed to information relating to transactions between market participants or made on an Exchange)

Eventually, some market rules lay out of the scope of TSOs competences and shall not be included in the codes drafted by the ENTSO. These market rules include the following:

- Rules on financial instruments (except Financial Transmission Rights as far as the rules contained in the market and technical codes are coherent with the laws and regulations applicable to financial instruments)
- Power Exchanges specific rules and trading rules between parties, including clearing, trading fees, products specification on the Day-Ahead and Intraday markets and gate closure times in the absence of implicit capacity allocation mechanism
- More generally, rules on the commercial arrangements between the market participants

15. The role the ENTSO regarding the elaboration of the market and technical codes should be adapted according to the classification of the areas of competences presented above:

- Where the codes apply to those competences specific to TSOs, the framework proposed in the amended Regulation 1228/2003 could be satisfactory, provided the consultation procedure is extensive and well monitored.
- Where the codes apply to shared competences, the ACER should be in charge of drafting and implementing the codes as well as running the consultation process towards all relevant market actors.

16. In general, the ACER should be given the power to monitor more closely the work of the ENTSO related to the drafting of the technical and market codes. Hence, the whole market and technical codes shall be subject to a formal, mandatory approval by the ACER. Indeed, the balance of power that exists currently at the national level between TSOs and NRAs should be maintained at the European level between the ENTSO and the ACER, in order to avoid the risk of the ENTSO to become a self-regulated entity.

Regional and Interregional Cooperation

17. EuroPEX members are committed to regional cooperation. PXs involvements in the ERGEG's Electricity Regional Initiatives as well as in *ad hoc* regional cooperation achievements (such as the Trilateral Market Coupling or the MIBEL market) are some instances of this dedication to markets integration.

18. EuroPEX welcomes the mandate given to the ACER and to NRAs in terms of regional cooperation. However, the current framework for regional cooperation has its limits. One particularly striking factor of inefficiency of the current ERGEG regional initiatives in terms of

progressing with implicit capacity allocation projects is that those are overlapping: one country may be included in different regional initiatives, which is a source of major difficulties in terms of sequencing the different regional implicit capacity allocation projects.

19. The Third Energy Package does not fully take into account the challenges of interregional coordination of implicit capacity allocation. A fruitful measure could consist in redefining the current regional areas of cooperation in the field of implicit capacity allocation, so that the latter do not overlap, and evolve dynamically according to on-going cooperation projects.

Transparency Requirements and Market regulation

20. EuroPEX supports the efforts made in terms of transparency requirements, which should improve the well-functioning of the market on a non-discriminatory basis. The Third Energy Package assesses the issue of market monitoring through an obligation of record keeping. It is important that this obligation should be interpreted as extensively as possible, so that the full range of electricity-related transactions fall within the scope of the measure - i.e. all contracts irrespective of whether the transaction has been made in an organised market (Power exchange), OTC or bilaterally.
21. The Third Energy Package does not push for additional progress in the field of data transparency, in particular for generation data. In particular, an important transparency requirement would consist in providing the market with generation data as close as possible from real time. Publishing such data would significantly improve the transparency and the efficiency of the market. As EuroPEX expressed it earlier in a Position Paper on transparency (2006), an important requirement is indeed that those data are effectively published, and not only accessible upon request.
22. However, the requirement for TSOs to publish such data should not be exclusive, as other independent entities (such as PXs) should also have access to such data and be able to publish it on the market place, as long as those entities have the technical means to do so securely and can ensure a non-discriminatory access to the information. This last issue is subject to the subsidiarity principle, since the most relevant entity to publish generation data may change from country to country according to the specificity of each market. As a general principle, the source of the information concerned shall provide the entity in charge of publishing this information with all the market relevant power system data, in a format and within a timeframe that are consistent with the publisher's obligations with respect to this information. The source of information should also remain responsible for the accuracy of the information it provides to the publisher.
23. EuroPEX is trustful in the ability of such transparency measures, associated with a strengthening of the regulatory authorities' powers in terms of surveillance, to ensure the fast development and the good functioning of the European electricity market. For this purpose, it is also important that administrative authorities do not interfere in the formation of market prices in the wholesale market, as such interventions put at high risk the commercial viability of the market and undermine greatly the efficiency of market prices in terms of investment-signalling. In particular, the establishment of price caps renders very difficult the development of the wholesale markets

and their related derivatives markets of hedging purposes; it thus constitutes a foreclosure of those markets and reduce the level competition.

24. Retail prices should likewise not be subject to administrative control, in order that the relationship between the wholesale and the retail markets remains coherent, and that both markets remain liquid and open to competition.
25. Generally speaking, PXs provide the market with transparent and robust prices, resulting from a secured and anonymous matching of the supply and the demand. Their role in the fair formation of the price is essential for the market, and should then neither be neglected, nor biased by arbitrary price control measures.

II. Specific amendments

On the proposal amending Directive 2003/54/EC concerning common rules for the internal market in electricity

Text proposed by the Commission

Proposal of modification by EuroPEX

Recital 20

Prior to adoption by the Commission of guidelines defining further the record keeping requirements, the Agency for the Cooperation of Energy Regulators and the Committee of European Securities Regulators (CESR) should cooperate to investigate and advise the Commission on the content of the guidelines. The Agency and the Committee should also cooperate to further investigate and advise on the question whether transactions in electricity supply contracts and electricity derivatives should be subject to pre and/or post-trade transparency requirements and if so what the content of those requirements should be.

Prior to adoption by the Commission of guidelines defining further the record keeping requirements, the Agency for the Cooperation of Energy Regulators and the Committee of European Securities Regulators (CESR) should cooperate to investigate and advise the Commission on the content of the guidelines. The Agency and the Committee should also cooperate to further investigate and advise on the question whether transactions in electricity supply contracts and electricity derivatives should be subject to pre and/or post-trade transparency requirements and if so what the content of those requirements should be. **In doing such assessment, the Agency and the Committee will have to ensure that no regulatory gap is created when framing the scope of those transactions subject to transparency requirements: all electricity-related transactions should be subject to such requirements irrespective of whether the transaction has been made in an organised market, OTC or bilaterally.**

[Justification: See Part I, point 20]

Recital 22

In view of the creation of an internal market for electricity, Member States should foster the integration of their national markets and the cooperation of network operators at European and regional level.

In view of the creation of an internal market for electricity, Member States should foster the integration of their national markets and the cooperation of **national regulators and** network operators at European and regional level. **The efforts undertaken to integrate the markets at the regional level should take into account the interdependency of the different regional cooperation, in order to ensure on a longer-term their compatibility in the perspective of the emergence of a Single European Energy Market.**

[Justification: See Part I, points 10 and 17-19]

Recital (o) (new)

The development of electricity markets shall not be distorted by prices regulations measures such as price caps on the wholesale market or regulated tariff on the retail market. Rather, market transparency and surveillance measures are the factors leading to the establishment of efficient electricity markets. Unjustified price developments should be controlled by the relevant market surveillance and regulatory authority, and when necessary sanctioned on the basis of the relevant market legal rules.

[Justification: See Part I, points 23-25]

Article 1 – point 12

Article 22d-4: Regulatory regime for cross-border issues

4. The Commission ~~may~~ adopt guidelines on the extent of the duties of the regulatory authorities to cooperate with each other and with the Agency, and on the situations in which the Agency becomes competent to decide upon the regulatory regime for infrastructures connecting at least two Member States. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

4. **Within one year after the entry into force of this Directive**, the Commission **shall** adopt guidelines on the extent of the duties of the regulatory authorities to cooperate with each other and with the Agency, and on the situations in which the Agency becomes competent to decide upon the regulatory regime for infrastructures connecting at least two Member States. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

[Justification: See Part I, point 10]

Article 1 – point 12

Article 22f-2: Record keeping

2. The data shall include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled electricity supply contracts and electricity derivatives.

2. The data shall include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled electricity supply contracts and electricity derivatives, **taking into consideration that in regulated organised markets, transactions between supply undertakings and wholesale customers are made anonymously through a Central Counterparty.**

Article 1 – point 12

Article 22g (new): Provision of information

1. Data on actual use of generation and load assets should be published. Ex-ante data on availability generation and load assets should be published at least on an aggregated basis by fuel type and updated at least on a daily basis, and ex-post data of actual use of generation and load assets should be published as close as possible from real time on an aggregated basis by fuel type; individual plant outage should be made known immediately.

2. Parties responsible for publishing the information as referred in paragraph 1 shall be able to ensure a non-discriminatory access to the information.

3. Market participants concerned shall provide the entity in charge of publishing this information with the relevant data, in a format and within a timeframe that are consistent with the publisher's obligations with respect to this information. The source of information should also remain responsible for the accuracy of the information it provides to the publisher.

[Justification: See Part I, points 21-22]

On the proposal amending Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity

Text proposed by the Commission

Proposal of modification by EuroPEX

Recital 7

In order to ensure an optimal management of the electricity transmission network and to allow trading and supplying electricity to retail customers across borders in the Community a European network of the transmission system operators should be established. Its tasks should be carried out in compliance with Community competition rules which remain applicable to the decisions of the European network of the transmission system operators. Its tasks should be well-defined and their working method should be such as to ensure efficiency, representativity and transparency. Given that more effective progress may be achieved through an approach at regional level, transmission system operators should set up regional structures within the overall cooperation structure, whilst ensuring that results at regional level are compatible with codes and investment plans at Community level. Cooperation within such regional structures presupposes effective unbundling of network activities from production and supply activities in the absence of which regional cooperation between transmission system operators gives rise to a risk of anti-competitive conduct.

In order to ensure an optimal management of the electricity transmission network and to allow trading and supplying electricity to retail customers across borders in the Community a European network of the transmission system operators should be established. Its tasks should be carried out in compliance with Community competition rules which remain applicable to the decisions of the European network of the transmission system operators. Its tasks should be well-defined and their working method should be such as to ensure efficiency, representativity and transparency. Given that more effective progress may be achieved through an approach at regional **and interregional** level, transmission system operators should set up regional structures within the overall cooperation structure, whilst ensuring that results at regional level are compatible with codes and investment plans at **the interregional level and at the** Community level. Cooperation within such regional structures presupposes effective unbundling of network activities from production and supply activities in the absence of which regional cooperation between transmission system operators gives rise to a risk of anti-competitive conduct.

[Justification: See Part I, points 17-19]

Article 1 – point 3

Article 2a: European Network of Transmission System Operators for Electricity

All transmission system operators shall cooperate at Community level through establishing the European Network of Transmission System Operators for Electricity in order to ensure the optimal management and sound technical evolution of the European electricity transmission network.

1. All transmission system operators shall cooperate at Community level through establishing the European Network of Transmission System Operators for Electricity in order to ensure the optimal management and sound technical evolution of the European electricity transmission network.

2. This cooperation shall also include those entities in charge of certain grid access related functions and transmission system operations functions as defined in Article 2(4) of Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC, that are not transmission system operators themselves.

3. The assigned competences of the transmission system operators and the entities referred to in paragraph 2 within the European Network of Transmission System Operators cooperation framework shall reflect their respective actual transmission system operations and grid access functions.

[Justification: See Part I, point 11]

Article 1 – point 3

Article 2b: Establishment of the European Network for Transmission System Operators for Electricity

1. By [...] at the latest the transmission system operators for electricity shall submit to the Commission and to the Agency the draft of statutes, a list of future members and draft rules of procedure, including the rules of procedure on the consultation of other stakeholders, of the European Network for Transmission System Operators for Electricity to be established.

1. By [...] at the latest the transmission system operators for electricity **and the entities referred to in Article 2a(2)** shall submit to the Commission and to the Agency the draft of statutes, a list of future members and draft rules of procedure, including the rules of procedure on the consultation of other stakeholders, of the European Network for Transmission System Operators for Electricity to be established.

[Justification: See Part I, point 11]

Article 1 – point 3

Article 2c-3: Tasks of the European Network of Transmission System Operators for Electricity

3. The detailed technical and market codes shall cover the following areas, according to the priorities defined in the annual work programme:

- (a) security and reliability rules;
- (b) grid connection and access rules;
- (c) data exchange and settlement rules;
- (d) interoperability rules;
- (e) operational procedures in an emergency;
- ~~(f) capacity allocation and congestion management rules;~~
- ~~(g) rules for trading;~~
- ~~(h) transparency rules;~~
- (i) balancing rules including reserve power rules;
- (j) rules regarding harmonised transportation tariff structures including locational signals and inter-TSO compensation rules;
- (k) energy efficiency regarding electricity networks.

3. The detailed technical and market codes shall cover the following areas, according to the priorities defined in the annual work programme:

- (a) security and reliability rules;
- (b) grid connection and access rules;
- (c) data exchange and settlement rules;
- (d) interoperability rules;
- (e) operational procedures in an emergency;
- (f) balancing rules including reserve power rules;
- (g) dispatching mechanisms rules**
- (h) rules regarding harmonised transportation tariff structures including locational signals and inter-TSO compensation rules;
- (i) energy efficiency regarding electricity networks.

[Justification: See Part I, points 12-14]

Article 1 – point 3

Article 2d-2: Monitoring by the Agency

2. The European Network of Transmission System Operators for Electricity shall submit the draft technical and market codes, the draft 10-year investment plan and the draft annual work programme, including the information regarding the consultation process, to the Agency.

~~The Agency may provide an opinion to the European Networks of Transmission System Operators for Electricity within 3 months.~~

The Agency shall provide a duly justified opinion to the Commission where it considers that the draft annual work programme or the draft 10-year investment plan do not ensure non-discrimination, effective competition and the efficient functioning of the market.

2. The European Network of Transmission System Operators for Electricity shall submit the draft technical and market codes, the draft 10-year investment plan and the draft annual work programme, including the information regarding the consultation process, to the Agency.

The draft technical market codes, the draft 10-year investment plan and the draft annual work programme must be formally approved by the Agency within 3 months before they can be implemented.

The Agency shall provide a duly justified opinion to the Commission where it considers that the draft annual work programme or the draft 10-year investment plan do not ensure non-discrimination, effective competition and the efficient functioning of the market.

[Justification: See Part I, point 16]

Article 1 – point 3

Article 2f-1: Consultations

1. In carrying out its tasks, the European Network of Transmission System Operators for Electricity shall consult extensively, at an early stage and in an open and transparent manner, in particular while preparing the technical and market codes and its annual work programme referred to in Article 2c(1) and (3), with all appropriate market participants; the consultation shall include supply and generation undertakings, customers, system users, distribution system operators, including relevant (industry) associations, technical bodies and stakeholder platforms.

1. In carrying out its tasks, the European Network of Transmission System Operators for Electricity shall consult extensively, at an early stage and in an open and transparent manner, in particular while preparing the technical and market codes and its annual work programme referred to in Article 2c(1) and (3), with all appropriate market participants; the consultation shall include supply and generation undertakings, **power exchanges**, customers, system users, distribution system operators, including relevant (industry) associations, technical bodies and stakeholder platforms.

[Justification: See Part I, points 1-3 and 15]

Article 1 – point 3

Article 2h-2: Regional cooperation of transmission system operators

2. Transmission system operators shall promote operational arrangements in order to ensure optimum management of the network, and promote the development of energy exchanges, the allocation of cross-border capacity through implicit **auctions** and the integration of balancing and reserve power mechanisms.

2. Transmission system operators shall promote operational arrangements in order to ensure optimum management of the network, promote the development of energy exchanges, and **facilitate on the relevant borders** the integration of balancing and reserve power mechanisms and the allocation of cross-border capacity through implicit **mechanisms in collaboration with the concerned market actors**.

[Justification: Part I, points 1-3 and 17]

Article 1 – point 3

Article 2h-3: Regional cooperation of transmission system operators

3. The geographical area covered by each regional cooperation structure **may** be defined by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 13(2).

For that purpose, the Commission **may** consult the European Network of Transmission System Operators for Electricity **and** the Agency.

3. The geographical area covered by each regional cooperation structure **shall** be defined by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 13(2).

In defining the geographical area covered by each regional cooperation structure, the Commission shall avoid defining overlapping areas for the purposes of implementation of implicit capacity allocation mechanisms.

For that purpose, the Commission **shall** consult the European Network of Transmission System Operators for Electricity, the Agency, **and the representatives of market actors actively involved in the regional initiatives.**

[Justification: See Part I, points 1-3 and 17-19]

On the proposal of a Regulation establishing an Agency for the Cooperation of Energy Regulators

Text proposed by the Commission

Proposal of modification by EuroPEX

Article 6-3 : Tasks as regards the cooperation of transmission system operators

3. The Agency ~~may provide an opinion~~ to the European Network of Transmission System Operators for Electricity as provided for in Article 2d(2) of Regulation (EC) No 1228/2003 and to the European Network of Transmission System Operators for Gas as provided for in Article 2d(2) of Regulation (EC) No 1775/2005 on the technical or market codes, on the draft annual work programme and the draft 10-year investment plan.

3. The Agency **shall provide a mandatory approval** to the European Network of Transmission System Operators for Electricity as provided for in Article 2d(2) of Regulation (EC) No 1228/2003 and to the European Network of Transmission System Operators for Gas as provided for in Article 2d(2) of Regulation (EC) No 1775/2005 on the technical or market codes, on the draft annual work programme and the draft 10-year investment plan **before those can be implemented.**

[Justification: See Part I, point 16]

Article 7-3 Tasks as regards the national regulatory authorities

3. The Agency shall promote cooperation between the national regulatory authorities and between regulatory authorities at regional level. Where the Agency considers that binding rules on such cooperation are required, it shall make the appropriate recommendations to the Commission.

3. The Agency shall promote cooperation between the national regulatory authorities and between regulatory authorities at regional level **and interregional level.** Where the Agency considers that binding rules on such cooperation are required, it shall make the appropriate recommendations to the Commission.

[Justification: See Part I, points 10 and 17-19]

Article 8-3, 8-4, 8-5, 8-6 (new): Other tasks

3. The Agency shall be in charge of drafting and implementing and the technical and market codes on the following areas:

- **Capacity allocation and congestion management rules;**
- **Gate closure time applicable to implicit mechanisms;**
- **Transparency rules for information related to generation, transport, distribution and consumption of electricity, excluding transactions between market participants or on an exchange.**

4. In carrying out its task referred to in Article 8(3), the Agency shall consult extensively, at an early stage and in an open and transparent manner, with all appropriate market participants; the consultation shall include the European Network of Transmission System Operators for electricity, power exchanges, supply and generation undertakings, customers, system users, distribution system operators, including relevant (industry) associations, technical bodies and stakeholder platforms.

5. All documents and minutes of meetings related to the issues referred to in paragraph 4 shall be made public.

6. Before adopting the technical and market codes referred to in Article 8(3), the Agency shall indicate the observations received in the consultation and how these observations have been taken into consideration. It shall provide reasons where observations have not been taken into account.

[Justification: See Part I, points 12-16]