**Eni Gas &Power's response to ERGEG's and CESR's advice to the Commission on record-keeping, transparency and exchange of information**

## Introduction

Eni Gas & Power recognize that an adequate and homogeneous level of transparency, first of all in access conditions, has to be considered an important step also towards the development of a single competitive European gas market.

Nevertheless, it should be taken into account the following:

- transparency requirements shall be consistent with the principle of avoiding the disclosure of commercial sensitive information to the market, avoiding useless burden put on the operators;
- introducing record keeping obligations would generate a potential very high cost for operators deriving from disproportionate regulatory interventions.

The present document is organized in two paragraphs pointing out Eni's view related to the items discussed in each section of the consultation paper.

## A.RECORD KEEPING

Generally, in our opinion, the purpose of record keeping obligations proposed in the amendments to the electricity and gas Directives should be different from the existing one for record keeping obligations under MiFID.
First of all the competences, indeed, the activity of regulation on financial instruments, even in the electricity and natural gas sectors, is exclusively in charge of Financial Market Regulators following the principles and provisions of EU legislation on financial market.

The same principle should be taken into account with reference to Competition Authorities: the possibility of "overlapping competence" between sector regulatory authorities, who should guarantee the non discriminatory access to networks, and antitrust authorities, who should ensure the proper functioning of the system in a liberalized market, has to be minimized.
In general, lacking a clear definition of the regulatory bodies' competences, there is the real and concrete risk of duplication, overlapping and incoherencies of regulatory provisions. Record keeping provisions in this view could add confusion and ground for contentious, in practise hindering the efficient allocation of resources, risk hedging and new operators' entry.
Furthermore, it has to be considered that a prerequisite for obtaining liquidity and transparency in the market is a stable and coherent regulatory framework also referring to duties and competences of regulatory bodies.

Anyway the establishment of record keeping obligations, in particular with respect to transaction in electricity and gas derivatives and wholesales supply conditions, seems to be not proportional to the aim of allowing National Regulatory Authority (NRAs)to carry out duties established by article 24, and constitutes an excessive power to interfere in commercial activities and decisions that, in a context of full liberalization of sale activities, falls outside the specific area of competence of gas and electricity Regulators. The

competence of sector regulatory authorities should be limited to activities connected to regulate the access to the system.
Data disclosure measures supporting market to operate efficiently should be related only to access infrastructure information. Different disclosure obligations would constitute a useless and disproportionate burden put on supply undertakings.

In general terms, speaking of data disclosure, there should be made clear which are the objectives underpinning the data collection and their possible publication, the qualified nature of information needs to be provided. NRAs should be entitled to acquire information restricted to regulated activities (access) while commercial, financial activities and related data, not directly linked to vulnerable customers protection, shouldn't be submitted to Authority control.

Moreover the provisions of article 24 f should further legitimate policy objectives in a proportionate manner, in particular avoiding the creation of an unjustified different treatment of gas market participants operating in divers Countries. Thus, it is essential that the Commission produce guidelines to define in a uniform way methods and arrangements for record keeping as well as the form and content of the data involved.

There should also be clarity about how and when the regulatory authority will be allowed to release the information acquired as a result of record keeping provisions. This clarity is fundamental to avoid any possible discretionary and even discriminatory treatment by the NRAs in the disclosure of information.

## B. TRANSPARENCY AND EXCHANGE OF INFORMATION

Energy traders, under national law provisions, have the obligation to communicate to National Regulator Authority and to government Authorities and Bodies "post trade information" related to volumes and prices sold to final costumers detailed on: monthly basis, consumption ceilings and territorial distribution areas, gas final customers selling contracts, gas supply contracts features. Moreover data related to unbundling provisions have also to be communicated.
Excepted for information on gas supply contracts features, there aren't any law provisions about "pre trade information" to be communicated or published. Also with reference to electricity, information "post trade" about pool outcomes is available. Post trade data communicated are published on aggregated form and no other significant trade information is made public.

Eni Gas & Power considers the existing transparency requirements sufficient and notices that access to information on aggregated traded volumes and prices is equal for all parties active in the market.

Concerning transparency, the priority should be the implementation of existing requirements and the implementation of use friendly ways to supply information: it's important to consider that the adoption of transparency requirements can be considered effective when information is really available in a user friendly manner for all the operator active in the European market.

This means for examples that an effective transparency could be realized also through:

- resolution of linguistic barriers; nowadays documents are often not available in English or they are available just after the conclusion of the procedure to which documents are related;
- websites sent alerts: in case of deadlines or new relevant information, TSOs websites should send alerts to all transmission users and to operators who registered themselves in the website;
- adoption of excel or cvs formats to publish numerical data; pdf formats don't allow to easily handle and elaborate information.

In our opinion, it would be important that effective levels of transparency were progressively monitored and that a referring level of effective transparency, to be homogeneously reached in the European market, were identified also as a goal on European Network of Transmission System Operators for Gas (ENTSOG) responsibility. So that ENTSOG would be able to better guarantee for each single TSOs both the compliance to the Regulation 1775/2005/EC and the development of measures entailing a common effective and operative framework, also in matter of transparency.

Generally speaking, better transparency conditions on basic data (as transmission, transportation, storage and capacity levels), that means in particular also homogenous level of application in the European market, better and easier usability, it is important to support market integrity for both physical and derivatives markets.

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