

# European Regulation and Bridging the Regulatory Gap

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# EU Current Regulatory Framework

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- What do EU National Regulatory Authorities do currently?:
  - Structures, powers and roles differ between Member States
- What does 3<sup>rd</sup> Package envisage?:
  - Enhanced powers of NRAs
    - Independence from Governments and other institutions
  - Develop competitive & properly functioning national and regional markets
    - Grant incentives to increase performance and foster integration
  - Obligation on NRAs to cooperate on cross-border issues
    - Objective to ensure appropriate cross-border capacity is developed

# UK Regulatory Framework

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- Ofgem's duties under Electricity/Utilities Act:
  - Protect interests of consumers by promoting effective competition;
  - Having regard to:
    - Need to ensure all reasonable demands for electricity are satisfied;
    - Need to ensure licence holders can finance authorised activities
- Transmission Licensee's duties under Electricity/Utilities Act:
  - Develop & maintain an economic, efficient and co-ordinated transmission system;
  - Facilitate competition in generation & supply

# Example: Compliance Monitoring Standards

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- Under its licence, National Grid is required to monitor and report to the UK regulator regarding compliance standards on:
  - System Availability:
    - Annual availability
    - Winter Peak availability
  - Security of Supply:
    - Reliability of the transmission network
    - Voltage excursions
  - Quality of Service:
    - Frequency excursions
- So in the GB regime:
  - TSO reports on performance
  - Ofgem considers these reports as to their compliance with TSO duties

# The Challenges Ahead

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- 3<sup>rd</sup> Package
- Renewable Energy Directive
- TEN-E Guidelines, Guidelines for Good Practice Congestion Management, Operational Security
- Internal Energy Market and regional integration
  - Focus is increasingly on interconnections
  - Merchant vs Regulated Investment
  - Article 7/22 Exemptions and the need to create an environment for investment
- The Regulatory “Gap”...

# The Regulatory Gap

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- National regulation is well understood
- Inter-country regulation is in its infancy
- Bi-lateral or Multi-lateral bespoke regulatory deals required (eg Belpex)
- In more complex cases transmission investment in one country may not bring any direct benefit in that country but may benefit other countries
- Practical progress may be best achieved at regional level

# Bridging the Gap - Self-Regulation?

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- TSOs do not contemplate becoming a self-regulated industry
  - Neither as TSO: already regulated on a national basis by NRAs
  - Nor as ENTSO-E: 3rd package gives ACER the power
    - to approve or reject each rule or code proposal before it is implemented by TSOs
    - to monitor the way the rule or code is applied
- The Agency has also the right to impose decisions on National regulators
  - Monitoring ensured by European Commission
  - Comitology process to address Member State concerns

# ENTSO-E / ACER Relationship

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- TSOs as market facilitators
- ACER to coordinate regulation
- Compliance monitoring: TSOs can collect the data, but ensuring compliance is for Regulators
- “Healthy tension” between ACER/ENTSO-E likely to lead to an efficient process
- Crucial to define clearly the roles and responsibilities e.g. consultation process

# Summary

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- At national level NRAs should have obligations to ensure TSOs perform their duties and that appropriate Transmission investment takes place
  - But this is not the case in every Member State and there is a lack of commonality across the EU
- The regulatory gap is a potential threat to effective further integration of European markets
- Self regulation is not what the 3<sup>rd</sup> Package foresees
- National Grid welcomes the mandate to National Regulators to cooperate at European level
- Healthy tension between ENTSO/ACER can create the appropriate environment for future progress towards the IEM.