



## **Thoughts on the 3. Package from the European Energy Regulator's Point of View**

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# European Energy Regulators welcome the 3. Energy Package

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**... in particular:**

- **Powers and independence of national regulators;**
  - **The establishment of an Agency for the Cooperation of Energy Regulators (ACER);**
  - **ACER's powers vis-a-vis European Network Operators (ENTSOs)**
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## 3. Package is in line with “best practices” and the “better regulation agenda” of European Energy Regulators

- National regulators to act independently of market interests and political influence;
  - Process for appointing a regulator open and transparent (legally distinct and functionally from any other public or private entity);
  - Term of office for the national regulator of sufficient length;
  - Regulators to enjoy security of tenure, legal personality, budgetary autonomy (implementing Budget) + adequate human resources;
  - Right of appeal to a body independent of the parties involved.
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# Powers and independence of energy regulators

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We also support a significant enhancement of the duties and powers of NRAs:

- **Monitoring duties** (Investment plan of TSOs, level of transparency, level of market opening, the implementation of the rules related to the roles and responsibilities of TSOs, ISO regime)
- **Reporting duties** (e.g. on its activities)
- **Compliance and implementation** of Agency and COM decisions
- **Fix or approve network access tariffs** and their methodologies, or alternatively approve or monitor the methodologies used to set the tariffs;
- **Receive relevant information** from gas/electricity undertakings and have appropriate rights of investigations
- **Impose effective sanctions** with appropriate rights of investigation and sufficient powers for dispute settlement;

A few amendments are needed:

- **Greater precision in defining the respective responsibilities between sector regulators (energy, but also financial services) and competition authorities**
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## ACER's internal structure



**Board of Regulators (New!)**

**Director**

**Administrative Board**

**Board of Appeal**

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# The Agency for the Cooperation of Energy Regulators

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## ACER's Competences

1. Take legally binding **decisions** on:  
Exemptions  
Access to cross-border infrastructures
  2. Draft **Framework guidelines** and non binding guidelines on good practice
  3. Provide **recommendations** to ENTSOs and to the COM on:  
ENTSOs draft annual work programme  
ENTSOs draft non binding 10 years dev. Plan
  4. Provide **opinions** to ENTSOs on:  
Draft Work programme  
Draft non binding 10 years dev. Plan  
Draft network codes
  5. Provide **opinions** to the COM on:  
ENTSOs statutes and draft rules of procedure
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# The Agency for the Cooperation of Energy Regulators

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**Commission's interpretation of case law (Meroni) has affected adversely tasks of the ACER vis-à-vis ENTSOs and governance arrangements**



**Split of roles/responsibilities between**

- the Commission
  - the Board of Regulators, and
  - the Director
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# The Agency and governance arrangements

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**How to improve effectiveness and avoid any necessary expenditures:**

- **Essential that Board of Regulators has necessary powers to perform its “regulatory function” in an independent manner**
  - **Board of Regulators must be in a position to provide overall guidance to the Director:**
    - **Assent of the Board of Regulators for the selection and renewal/dismissal of the Director;**
    - **Assent of the Board of Regulators prior to adoption of opinions, recommendations, decisions.**
  - **Define clear responsibilities between ACER/ENTSOs**
  - **Clarify Enforcement issues**
  - **Clarify Commission’s Role within ACER**
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# Priorities for the regulators

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## 1. Priority 1

- **Develop Input to Framework Guidelines**

## 2. Other priorities

- **Develop clear rules for the internal functioning of the Agency (Director, BoR, Administrativ Board...etc)**
  - **Ensure proper collaboration with the ENTSOs**
  - **Ensure a wide representation of all relevant stakeholders**
  - **Guarantee an efficient cooperation between Energy Regulators**
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# Future role of ERGEG and CEER

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## 1. CEER

- Continue as a private association
- Work on all issues that are not directly treated by ACER (International issues, Financial services issues...etc.)

## 2. ERGEG

- Commission's decision to repeal ERGEG
  - Advisory body for the Commission → ACER's role?
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**Thank you for your attention**

**Dr. Nadia Horstmann**

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