

40 ACER Board of Regulators Meeting

Wednesday, 17 September 2014, 08.30-16.00

Presidency of the Italian Council of Ministers, via della Mercede 9 – sala 31, Rome

Minutes - final

Member States	Name ¹	Member States	Name
Austria (E-Control)	M: Walter Boltz A: Dietmar Preinstorfer	Italy (AEEGSI)	M: Valeria Termini O: Ilaria Galimberti
Belgium (CREG)	M: Marie-Pierre Fauconnier A: Koen Locquet O: Geert Van Hauwermeiren	Latvia (PUC)	A: Ainars Mengelsons O: Rolands Irklis O: Lija Makare
Bulgaria (SEWRC)	Excused	Lithuania (NCC)	A: Vygantas Vaitkus
Croatia (HERA)	M: Tomislav Jureković O: Sonja Tomašić Škevin	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	M: Georgios Shammias	Malta (MRA)	A: Anthony Rizzo
Czech Republic (ERO)	M: Alena Vitásková O: Miroslav Belica	Netherlands (ACM)	A: Remko Bos O: Elozona Ochu
Denmark (DERA)	M: Finn Dehlbæk	Poland (URE)	M: Maciej Bando A: Halina Bownik-Trymucha
Estonia (ECA)	O: Marek Piiraja	Portugal (ERSE)	A: Alexandre Silva Santos
Finland (EV)	A: Riku Huttunen	Romania (ANRE)	A: Lusine Caracasian
France (CRE)	O: Sabine Hinz	Slovakia (RONI)	Excused
Germany (BNetzA)	A: Annegret Groebel O: Daniel Müether	Slovenia (AGEN-RS)	Excused
Greece (RAE)	M: Michael Thomadakis	Spain (CNMC)	M: Fernando Hernández O: Gema Rico
Hungary (HEA)	A: Attila Nyikos	Sweden (Ei)	M: Anne Vadasz Nilsson A: Caroline Tornqvist
Ireland (CER)	A: Laura Brien	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) A: Martin Crouch O: Feodora von Franz

Observers	Name
ACER	Alberto Pototschnig, Fay Geitona, Sarah Bradbury
European Commission	Kamila Kloc
CEER	Natalie McCoy, David Haldearn

¹ M: Member – A: Alternate – O: Observer

Main conclusions from the meeting:
1. <i>The BoR received an update from the EC and the ACER Director on recent developments.</i>
2. <i>The BoR confirmed in principle the approval of the ACER 2015 WP on the assumption that the EC opinion will not diverge from what was presented at the meeting. The BoR agreed to the launch of an electronic procedure in a short - single round for approving the final WP following the submission of the EC's formal opinion.</i>
3. <i>The BoR provided by consensus of the members present (or represented) its favourable opinion on the draft ACER Recommendation on the regulatory response to the future challenges emerging from developments in the internal energy market (Energy Regulation: A Bridge to 2025). It will be released at a launch event on 23 September along with the Evaluation of Responses.</i>
4. <i>The BoR received an update on REMIT implementing acts, REMIT security and RRM requirements.</i>
5. <i>The note prepared by the AEWG on the state of play of electricity FGs, codes and guidelines will be released as a BoR background document.</i>
6. <i>The BoR provided by consensus of the members present (or represented) its favourable opinion on the draft ACER Opinion on the ENTSO-E Incidents Classification Scale Methodology 2014.</i>
7. <i>The BoR had a update on the progress on Gas codes and discussed the draft Paper on the GTM.</i>
8. <i>The BoR discussed the third edition of the joint ACER-CEER MMR which is now being finalised.</i>
9. <i>The BoR had an update on progress of the ERI projects.</i>
10. <i>The BoR had an update on work by the AIMP WG and disucsd a note on the legal differences between codes and Guidelines.</i>

Part A: Items for discussion and/or decision

1. Opening

1.1. Approval of the agenda

BoR Decision agreed: (D 1)

The agenda was approved.

1.2. Approval of the minutes of the 39th BoR meeting

BoR Decision agreed: (D 2)

The 39th BoR minutes were approved.

2. Update from the Commission and the Director

2.1. Update on recent developments

- European Commission

Ms Kloc apologised on behalf of Mr Borchardt for his absence. She gave an update on recent developments including the new Commission and in particular the structure of the new energy portfolio, the new Commissioner (designate) for Climate Action and Energy, Miguel Arias Cañete, as well as to the Vice-President (designate) for Energy Union, Alenka Bratušek.

As it stands, the internal market is on the agenda of both, indicating this still to be a key issue. Security of supply (SoS) and the external dimension are very important as well. It is also yet to be seen if their nominations will be approved by the European Parliament.

The process will not impact the EC's forthcoming Internal Energy Market (IEM) Communication, which is expected at the end of October, but the Retail Market Communication will most likely be postponed in order for this to be discussed with the new Commissioner once appointed. The IEM will be a general communication, including reporting on implementation of the third package and the Country reports and the ITO model assessment, but might not include a section on the retail market.

Ms Kloc also gave an update on the EC's ongoing stress tests, which are an important focus for the Commission at the present time. They have been in dialogue with the ACER Director on developments and the potential role of ACER in this process. The exercise covers the EU MSs as well as Energy Community (EnC) contracting parties. Letters were also sent to G7, Turkey, Switzerland and Norway. The tests include the assessment of scenarios of 1 month and 6 month gas supply interruptions either limited to the disruption of the Ukrainian route or all Russian flows. They are working hard to complete these before the 23rd October and will keep the BoR informed.

- EC's non-paper on the process for Guidelines and Codes (moved under 9.2)

Ms Kloc apologised that the paper was still unavailable due to being reviewed by the Legal Service of the EC. The main points DG ENER notes are:

- Both (Network Codes and Guidelines) have the same legal effect and, therefore, there is no legal difference in terms of their adoption and their entry into force.
- The view is that if the legislative text announces future decisions to be mandated (to NRAs/TSOs) it should be a Guideline rather than a Network Code.
- There are also differences in the development/amendment processes. A difference is that the process is set out in more detail in the Electricity and Gas Regulations for Network Codes, with specific responsibilities of ACER and ENTSOs, whereas the process for developing Guidelines only foresees a consultation by ACER and ENTSOs. Moreover, the role of ACER is very different in any amendment process. The Commission said that it is looking to include a section on the governance/process in the individual Guidelines and that it intends to involve ACER/ENTSOs in the similar manner as it does for Network Codes.

- ACER

The Director gave an update. On staffing issues, ACER is still recruiting for a number of vacancies which NRAs are also invited to advertise. The number of nationalities employed

fell from 24 to 23 due to a Seconded National Expert (SNE) from Estonia leaving. Ofgem currently have 5 SNEs seconded to the Agency. The Czech NRA has indicated that they may be able to send more staff and the Director expressed his gratitude.

The Director also updated the BoR on the traineeship programme that was launched last year. It lasts for five or six months, with some of the costs covered by the Agency. The first two trainees were taken on in the autumn of last year. With two cycles a year, the Agency is now into their third round and five trainees have so far completed their programme. The programme has been very successful, so that six positions are now available in each cycle. It gives an opportunity for graduates to get experience. NRAs are invited to advertise the programme.

The Director briefly updated on the status of the Market Monitoring Report (MMR) but indicating that Mr Locquet would provide further detail. The report is near finalisation and its presentation has been scheduled for the 22nd October at a public event in Brussels. The report will also be presented at an exchange of views with the ITRE Committee on November 5th to which the Director and the BoR Chair have been invited by the new ITRE chair. The Director thanked all those whose hard work had made the report possible.

The Director briefly gave an update on REMIT. He noted the continued support from NRAs on the project. A number but not all NRAs have already been given access to the central registration (CEREMP) platform. A support desk has now been established to help any remaining NRAs to access CEREMP. An additional short presentation not on the agenda about the effort to ensure security would also be given.

Mr Locquet noted the resources constraints faced by NRAs as well.

The Chair asked Ms Groebel to give an update on where MSs stand on REMIT implementation. Ms Groebel updated that there were still some latecomers (in respect of MSs which have not granted to their NRAs the enforcement powers, including sanctions powers); a large internal overview had been conducted which will help NRAs in addressing these issues with their Ministries. A free beginner's course by CEER will take place next Monday, for which there were currently 22 registrations. She highlighted that they would be grateful if NRAs could send staff to the training which would give them an overview and would facilitate practical implementation of the rules. A further REMIT course will also be run in February at a more advanced level. The main focus of the implementation project is to help individual NRAs and ensure experts get the support they need, conveying the message that they can turn to ACER and other NRAs where they may have more experience. It is also important to ensure that the cooperation between NRAs and ACER functions well, any gaps in powers are avoided and cross-border cases can function as they should. Ms Groebel underlined that implementation requires substantial financial, training and staffing investment; otherwise provisions cannot be implemented properly and that efforts to implement should not be underestimated.

Lord Mogg underlined that some NRAs are still at an early stages of REMIT implementation, while others have implemented many of the REMIT provisions and set up the infrastructure. MSs need to be aware that some countries are not well advanced which may impact other MSs. It would not be unwise for the Commission to alert MSs to this big issue and to serious risks of market abuse.

On infrastructure, the Director reported that on 11 August ACER adopted a decision on the allocation of costs for the Gas Interconnection project between Poland and Lithuania. On 1 May the investment request was referred to ACER (under Art. 12(6) TEN-E Regulation). Between May - July consultations with NRAs and project promoters were held and on 11

August the Decision No 01/2014 was adopted and notified to parties concerned. The Decision was published on 29 August.

- **Draft ACER communication strategy**

The Director presented ACER's draft communication which had been circulated for information and which will be adopted by the Administrative Board the next day. He informed the BoR that this was the Agency's first formal such strategy which aims to establish how the Agency should communicate 'what we do and how we do it'. The document reflects the practices applied since the Agency was formed and also introduces new practices, including e-surveys, to collect stakeholder reactions on documents and developing social media to communicate the Agency's messages. The paper also suggests smart qualitative key performance indicators to allow for the evaluation of the effectiveness and quality of the Agency's communication activities and deliverables and thereby enhance its accountability.

The members took note of the strategy.

3. ACER cross-sectoral activities

3.1. 2015 ACER Work Programme

The Director recalled the process, whereby a draft is prepared by 30 June, while the final version should be adopted by the Administrative Board before 30 September each year, after consulting the Commission and after having received approval by the BoR. The Work Programme (WP) shall be adopted without prejudice to the annual budgetary procedure and shall be made public.

The EC's opinion is still pending. The WP is based on the Agency having 118 staff next year, and its projected budgetary needs. The implications of the Bridge follow-up work have not been fully factored into the WP. It may be that the WP must be revised early next year to take into account the final budgetary situation.

Ms Kloc presented some key elements of the draft Commission's Opinion on the ACER 2015 WP. She explained that the delay has been due to some extent to the internal transitions, as well as urgent issues that have arisen in the energy sector. The draft EC Opinion is currently undergoing inter-service consultation.

DG ENER believes the 2015 ACER WP focuses on the main priority issues: IEM, REMIT and the TEN-E Regulation. They encourage ACER to follow the same multi-annual perspective approach for its future WPs. The Commission acknowledges the useful analysis from the 2015 Bridge, which has identified future challenges. They agree with the identified challenges but also see the need to include further challenges the Commission sees as important, namely the global challenge of security of supply. In terms of detailed comments on the Third Package section, they have no comment on the focus on implementation and consider it is consistent with the Commission's expected priority list. The WP rightly focuses on implementation and monitoring of the network codes. Regarding REMIT, 2015 will be an important year for implementation and the Commission agrees with the WP focus. However, the Commission must state that they do not envisage additional resources. Regarding TEN-E Regulation, the Commission sees the need for a more harmonised approach on cross-border cost allocation by NRAs, in close cooperation with ACER. Regarding budgetary aspects, the Commission will likely provide similar views as expressed last year. The EC will invite ACER to revise its WP to reflect the final budgetary decisions.

BoR members made some comments.

The Director agreed that asking for a large budget increase is not customary, but ACER has been given many new tasks. ACER has consistently explained the resources it would need to implement REMIT fully so there is no need for further evidence but the budgetary procedure is not aligned to this need.

Following the European Commission's intervention and given the timing constraints as a result of the delay of the Commission's Opinion, Lord Mogg asked the BoR to agree to an electronic approval (in one round) for the 2015 WP.

BoR Decision agreed: (D 3)

The BoR confirmed in principle the approval of the ACER 2015 WP on the assumption that the EC opinion will not diverge from what was presented at the meeting. The BoR agreed to the launch of an electronic procedure in a short - single round for approving the final WP following the submission of the EC's formal opinion.

3.2. ACER WGs Away day

The Director updated the BoR on the Action Plan Proposal which was circulated on 17 August for comments to the away day participants by 15 September. The proposal, taking into account the discussion and the conclusions reached in Bled, proposes a number of actions to improve the way in which NRAs' experts and Agency's staff cooperate in the Agency's Working Groups and the most effective integration of the work of the Agency's Working Groups in the overall activities of the Agency.

The Director thanked the AWG Chairs and other participants in the Away day for their input to the previous draft action plan which will be considered in the final version to be shortly circulated. He is pleased on the progress made in achieving a common understanding.

3.3. BoR Roadmap

The Roadmap was circulated outlining progress since the last BoR.

4. Post 2014 Strategy

4.1. "Draft ACER Opinion on Energy Regulation: A Bridge to 2025" & Evaluation of responses

The Chair introduced the topic and gave his thanks for all involved in the preparation of the document. A copy of the final version of the paper was circulated, which included comments from the adhoc group meeting on 15 September as well as from the CEER GA the previous day where most chapters were discussed except for the Governance chapter and some improvements were made to the language.

The BoR Chair explained that the paper will take the form of an ACER Recommendation to the EU Institutions under article 5 of the ACER Regulation.

BoR members were then invited to discuss section by section.

Necessary changes were agreed and incorporated during the meeting on the basis of which the Director presented his formal proposal for the final ACER Recommendation under Article 5 for the favourable opinion of the BoR.

The Chair informed members that the Evaluation of Responses will be adapted to reflect the revisions of the ACER Recommendation and released with the ACER Recommendation.

He explained that a draft executive summary was also circulated along with a table of actions/conclusions which indicate the timeline but these would be simply accompanying documents and not be part of the formal ACER Recommendation. The members will receive those electronically for comments once updated to reflect the definitive version of the final Recommendation.

BoR Decision agreed: (D 4)

The BoR provided by consensus of the members present (or represented) its favourable opinion on the draft ACER Recommendation on the regulatory response to the future challenges emerging from developments in the internal energy market (Energy Regulation: A Bridge to 2025). The ACER Recommendation will be adopted and released on 23 September along with the Evaluation of Responses (EoR).

- Draft agenda for 23 September Bridge event

The Chair explained that on 23 September the ACER Recommendation and the Evaluation of responses papers would be formally released at a public event at Museum Cinquantenaire in Brussels. The event has attracted a lot of attention - 260 participants were registered to attend. The agenda was distributed for information.

Market Monitoring

5. Market Integrity and Transparency

5.1. EC's Implementing Acts

Ms Kloc provided an update on the Implementing Acts. An informal comitology meeting (without voting) took place on 22 July. The Commission was looking for written comments from Member States by 12 September. So the text will change slightly but not substantially. The formal vote is expected for 3rd October. If adopted, there is no further need for regulatory scrutiny from the EP, and therefore it is hoped that it will enter into force in November-December.

5.2. Update on PC on TRUM and RRM requirements

The Director and Ms Groebel introduced these papers. The first ACER public consultation on the draft RRM requirements and technical standards for transaction reporting took place in summer 2013, an initial draft TRUM was consulted in spring 2014. The Manual of Procedures on Fundamental Data Reporting was consulted between 24 June and 5 August 2014, the second public consultation on the draft TRUM and the RRM requirements was launched 21 July until 2 September 2014 in order to allow stakeholders to contribute to the documents before their finalisation and publication with the entry into force of the implementing acts. Such a public consultation in parallel with the comitology procedure of the draft implementing acts was aimed to enable the Agency to finalise the Manual of Procedures on Fundamental Data Reporting, the TRUM and the RRM requirements

document in parallel with the adoption of the Commission's implementing acts. Market participants, and third parties on their behalf, would thus be enabled to prepare the reporting of REMIT information without any further delay within the six-month deadline stipulated in Article 22, second subparagraph, of REMIT.

The Agency also organised a public workshop in Ljubljana on 16 July 2014 to collect stakeholders' views on the upcoming public consultation. A follow up workshop will be organised in October 2014. ACER is currently reviewing the feedback received from stakeholders.

REMIT Security

The Director gave a presentation on guaranteeing security in respect of the joint ACER/NRAs REMIT operations. The information which the Agency collects shall be handled on the basis of the need-to-know principle. The Agency and NRAs should have a shared interest in maintaining an adequate level of security of the REMIT System, in all its components (within the Agency, within NRAs, in the interfaces). Therefore, a clear and specific Security Policy for REMIT needs to be developed, consistent with the general security policy, but tailor-made to reflect REMIT-specific risks (the Agency can provide support) with due account to the relevant EC decision. The Agency will publish Security Guidelines. NRAs will need to submit a Declaration of Conformity with the Agency's Security Guidelines, possibly supplemented by a Risk Assessment and Security Policy Report. The Agency will then monitor the implementation of the Security Policies by NRAs with possible joint On-site Visit to address and clarify security concerns.

Mr Locquet supported ACER's approach on security aspects. ACER requests fulfilment of minimum standards, at the very least. However, NRAs face budgetary constraints and the large investments needed to meet security measures are difficult to undertake under the current budgetary situation. He asked the European Commission to advise Member States to ensure NRAs are provided (allowed) sufficient funding to implement these important measures.

Completion of the Internal Energy Market

Update on FGs and ENCs

6. Electricity

6.1. Oral update on the FGs and NCs

Mr Crouch gave an update. An informal meeting of Electricity cross border committee took place last week and discussed the CACM Guidelines. The next meeting will be held on 9 October. A planning Group is planned for 22 September to discuss mainly electricity items.

Ms Kloc reported that the informal comitology meeting was very productive. The EC notes that many controversial issues have been resolved and the Commission hopes for the adoption of the Guidelines by the end of the year.

- AEWG note on state of play on network codes & process

Mr Crouch introduced this paper. It intends to capture the progress on electricity FGs and network codes referring to each of the development steps (Electricity target model, Framework Guidelines, ENTSO-E drafting, ACER Opinions and Recommendations and Comitology stage) as the first Electricity Network Codes enter Comitology from Autumn 2014. The amount of work which has been put into this process by both ACER and ENTSOs

is significant. By mid-2013, 3 codes were recommended by ACER and by the end of 2013 another 3 codes. At this stage 8 out of 9 codes are at the Comitology stage and none is adopted. Independently of the timing for the adoption (which is being delayed) some of the Codes' provisions enter into force at a later stage. The conclusion and recommendation of the EWG is a call for the speedy adoption of Codes as well as ensuring inclusive approaches to codes amendments which is not currently reflected in the CACM text.

Ms Kloc welcomed the note. The EC agrees with its conclusions as regards the need to speed up the adoption of the codes. She sought some clarification on the next steps regarding the note.

Mr Crouch suggested releasing the note as a Background doc (for the BoR) and perhaps use it as an input for further contacts with the Institutions.

BoR Decision agreed: (D 5)

The note on the state of play of electricity FGs and codes will be released as a BoR background document.

6.2. Draft ACER Opinion on ENTSO-E Incident Classification Scale Methodology

The Director introduced the draft ACER Opinion. On 25 June 2014 ENTSO-E submitted its Incident Classification Scale Methodology (ICSM) for 2014 to which ACER must duly provide an Opinion. The ICSM 2014 defines the scales for classifying system incidents according to severity, and the scope and content of the annual report on these incidents. The Agency deems that the ICSM 2014 meets the objectives of non-discrimination, effective competition and the efficient and secure functioning of the internal market in electricity. The ICSM 2014 also effectively complements the draft Network Codes in the areas of monitoring the efficiency and appropriateness of network code provisions, as well as of the power system performance. As such the ICSM 2014 will support collecting factual and statistical data which the Agency will take into consideration when preparing proposals for amendments of the Network Codes. Nonetheless, in a few specific areas, in particular concerning the granularity of the reporting and the involvement of the National Regulatory Authorities ('NRAs') in the investigations of large-scale incidents, the ICSM 2014 does not appropriately take into account the Agency's Recommendation on the Network Code on Operational Security of 11 November 2013. In the Agency's view these issues can be addressed with immediate effects within a reasonable period and will allow to revisit the language and drafting of the ICSM 2014 and to seek improving its clarity. Due to uncertainty on how the methodology will be applied in practice, the Agency reserves the right to issue a further opinion on the ICSM 2014 upon receiving the first Pan-European ICS Annual Report.

BoR Decision agreed: (D 6)

The BoR provided by consensus (of the members present or represented) its favourable opinion on the draft ACER Opinion on the ENTSO-E Incidents Classification Scale Methodology 2014

7. Gas

7.1. Oral update on FGs and NCs & other work

Mr Boltz made his presentation available to BoR members.

On tariffs, ENTSOG published its draft Network Code on May 29th and ACER has already made suggestions on the areas in which the tariffs network code does not comply with the Framework Guidelines.

With regard to IOP, there was a first comitology meeting in July and the next one is for the end of October.

On balancing we are looking at early implementation projects but there is currently no much appetite for early implementation. ACER and ENTSOG are drafting a report which will be shared at the next Madrid Forum but evidently the progress indicated therein will not be much.

On CMP the report on the implementation is to be finalised soon. CAM implementation is ongoing. PRISMA seems to be the only platform. PRISMA has suggested changes to their methodology for allocating costs to each TSO.

In terms of Capacity products (follow-up of rules for trading), Mr Boltz noted that as the RfT FGs will not go ahead, a number of issues must be addressed. There is an ongoing discussion between ACER, EC, EFET and ENTSOG on possible harmonisation of capacity products and contractual conditions.

There was also an entry – exit study assessing the level of implementation and identifying a significant number of countries with long deviations. In the interim NRAs will assist TSOs changing their entry-exit systems.

Mr Boltz reported that 2 representatives from ECRB (secretariat and countries) attended the last AGWG. Next week at the AGWG a presentation will be given for the ECRB to provide them with an overview of the current work and the working methods.

7.2. Gas Target Model Paper

Mr Boltz presented the progress and the draft paper on the GTM. The AGWG aims to finalise the text in September and to submit the paper to the October BoR for endorsement. The paper will be also presented at the Madrid Forum. He then presented the draft paper which sets out the areas where further measures are necessary (based on an analysis of the status quo and future trends) and proposes such measures to achieve the goals, thereby building on regulators' work to date – in particular on Framework Guidelines and Network Codes in the specific areas, – and feedback from stakeholders.

The paper covers the following areas: a chapter on the Bridge to 2025 and the overall context, including demand and supply trends; the vision for the gas market and European-wide network codes; security of supply and upstream competition; wholesale market functioning; the role of gas in complementing RES electricity generation; retail market functioning in gas and a section on new uses of natural gas. Mr Boltz noted that the wholesale chapter is almost finished. A lot of work has been devoted to defining appropriate indicators to assess whether a Member State has a 'well-functioning' wholesale gas market. Ultimately, where an NRA does not think that the MS is likely to meet these criteria, it may recommend, subject to a CBA, structural remedies such as market mergers. The retail chapter has also found a common wording.

7.3. Madrid Forum

The EC has issued the invitation for the next MF along with a draft agenda. It will be held on 15, 16 October 2014.

8. **Investment challenge**

European Network Planning and infrastructure challenge

8.1. Update on the 2nd round for PCI selection

Ms Kloc updated the BoR on the process for the 2nd PCI round, which has been launched, and presented a detailed timeline. The process in the Regional groups will start in September and is expected to run until April. After this part of the process is concluded, within 3 months ACER would need to issue its opinion. The PCI list is scheduled for adoption in September-October 2015.

8.2. TYNDP implementation monitoring and recommendations

The Director reported on the state of play of the preparation of this report. It concerns the report on monitoring the implementation of the Community-wide TYNDP 2013-2022 on gas and on the progress with the implementation of investment projects to create new interconnector capacity. The future Opinion/Recommendation will be based on Article 6(8) of ACER Regulation. The respective ACER Opinion on electricity was released on 30 July. In order to undertake the monitoring, ACER have set-up of a database consisting of available data on all gas infrastructure projects as listed in the TYNDP, the PCI list, gas regional investment plans (GRIPs), and NDPs. This is accessible by NRAs and allows them to fill-in any additional information, the correction of existing information, and the evaluation of the projects for consistency and other parameters against a pre-defined set of indicators. The development, review, and publication of the required monitoring output, which may take the form of an Opinion or Recommendation, is expected for November or December 2014 and it will be submitted to the BoR for a favourable opinion.

9. **Implementation, Monitoring and Procedures**

9.1. 3rd edition of the Market Monitoring report

Mr Locquet introduced the state of play. The latest draft of the Market Monitoring Report was circulated at the end of August to all NRAs seeking final comments by 1st September. The report has been brought to the BoR meeting for a final discussion. The report is divided into four chapters: (i) the electricity and gas retail market; (ii) the electricity wholesale market; (iii) the gas wholesale market; and (iv) consumer protection and empowerment. Both wholesale chapters report on network access issues.

The Director emphasised the excellent work and collaboration between NRAs and ACER on the preparation of the report. At this stage of finalisation - editing and proof reading - of the report - before its sent for print, he and Mr Locquet invited the members to only raise any factual corrections (given that there have been several discussions and verification of data by NRAs).

Ms Kloc asked about the timing of the publication.

The Director informed the members that the date for a Brussels-based event has been set for its presentation on 22 October in the EC's building Albert Brochette Conference Centre.

9.2. Legal assessment by PWS regarding the differences between Network Codes and Guidelines covering the areas listed in Article 8.6 of the Electricity and Gas Regulations

Mr Locquet presented this note. The PWS prepared this summarising the differences between the two adoption routes (EC Guidelines and Codes) from a legal perspective. The Network Codes define technical and markets rules in the areas listed in Article 8.6 of the Regulations. Guidelines provide additional details relating to the areas of the network codes listed in Article 8.6. This distinction is, however, still slightly unclear. There are also different consultation requirements, when the Commission adopts a code on its own initiative (it must consult ACER, the ENTSOs and all relevant stakeholders) and the adoption of a new guideline (it must only consult ACER and the ENTSOs). In respect of amendments, regarding network codes these may be proposed by any person who has an interest, including ACER, ENTSOs, TSOs, system users and consumers. ACER is required to consult all stakeholders if proposing an amendment. Only the Commission has the initiative to amend a guideline but it must consult ACER and the ENTSOs. There also differences regarding ACER's monitoring responsibilities in respect of codes and Guidelines. The note seeks some legal clarifications in a number of questions and a telephone conference on 9 September was organised between the EC and the PWS.

Lord Mogg noted the need for clarity and practical solutions.

10. Regional integration

10.1. Progress on ERI cross regional roadmaps

The Director provided an overview of the process.

Day-ahead:

The CWE FB Implementation is ongoing. The go-live date is still planned for November. There is a growing acceptance by the market, subject to additional transparency requirements. Robustness is still the main risk for delay. The extension to CSE is ongoing. The go-live window has been moved to mid-February to take into account the launch of CWE FB. The 4MMC project is ongoing. The go-live date is planned for 11th November.

Intraday:

The PXs/TSOs (Power Exchangers and Transmission System Operators) and DBAG are still in the pre-contractual phase (Early Start Agreement) but this is due to finish in December. The design and development of the XBID solution is scheduled for completion by Q4 2015 but there is concern this timeline will not be adhered to. Two long-standing issues are the performance of the DBAG system which is still pending and equal treatment of PXs by DBAG as the provider of the XBID solution. Negotiations between PXs and DBAG are still difficult and overall progress is still limited. Regarding the suggestion for some "Quick-wins", NRAs' position is expected for the next AESAG meeting. The forecasted budget is still within the limit of the comfort letter.

Long-term:

CAO and CASC TSOs plan to launch the Joint Auction Office (JAO) in September 2015 for 2016 yearly auctions. JAO TSOs plan to run auctions under the Harmonised Auction Rules

(HARs) currently drafted by ENTSO-E. 16 NRAs covering 24 borders need to approve these HARs before September 2015.

Balancing:

TSOs and NRAs are invited to improve the market participants' involvement in ongoing Balancing Pilot Projects at local level.