


# ACER

 Agency for the Cooperation  
of Energy Regulators

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## ACER PUBLIC CONSULTATION ON THE DRAFT FRAMEWORK GUIDELINES ON GAS BALANCING

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### EVALUATION OF RESPONSES

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## I. Introduction

### ***Gas balancing in Europe***

Gas markets in Europe are fragmented in several balancing zones across the European Union (EU) and different balancing arrangements applying in neighbouring markets. In many Member States, network users do not yet have regular information during the balancing period on whether their portfolio is in balance or have access to liquid wholesale markets to trade flexible gas. This impedes their ability to balance their portfolios and increases their exposure to imbalance charges. In many balancing regimes, imbalance charges do not reflect the cost of the Transport System Operator (TSO) balancing the gas networks. The Framework Guidelines (FG) aim to mitigate these problems and introduce the right incentives to allow and encourage network users to balance their portfolio and reduce cross-subsidies between network users, which currently apply in Member States and are considered discriminatory.

### ***Developing the Framework Guidelines on gas balancing***

On 12 April 2011, the Agency for the Cooperation of Energy Regulators (ACER) launched a public consultation on the Framework Guidelines on Gas Balancing. The purpose of this consultation was to collect the views of the stakeholders in order to develop the Framework Guidelines pursuant to Article 8(6)(g) of the Regulation (EC) No 715/2009. The public consultation was open for two months and closed on 12 June 2011.

ACER received 56 responses, 5 of which were confidential. Annex I lists the respondents which agreed to reveal their identity by their country of origin and the nature of their activity.

Throughout its work on gas balancing ACER benefited from stakeholder involvement through expert groups, public workshops, bilateral meetings and public consultations.

ACER Draft Framework Guidelines are based on the European Regulators' Group for Electricity and Gas (ERGEG) Pilot FG on Gas Balancing, developed during 2010 and 2011.

## 2. Responses per section

ACER public consultation invited stakeholders to give their general views on the Draft Framework Guidelines on Gas Balancing rather than answering a list of questions. As they knew that ACER based itself on ERGEGs work, many respondents actually referred to the responses they made to public consultations organised by European Regulators Group in the past. The present Evaluation Paper only summarises comments made during ACER's own consultation process. It does not include comments made to ERGEG<sup>1</sup>.

The following table provides an exhaustive analysis on the non-confidential responses received in the consultation and focuses on key issues raised by the respondents, in compliance with Article 10(3) of Regulation (EC) No 713/2009.

The issues are grouped reflecting the different sections of the Draft Framework Guidelines.

Where relevant and practical, ACER included in the table the number of respondents who agreed with ACER's proposals in the Draft Framework Guidelines or the number who disagreed. Please note that some respondents chose not to respond or preferred to send us a comment rather than explicitly express their agreement or disagreement with a proposal. For example, in the table below under *1.4. Implementation*, ACER mentions that 18 respondents agreed with the proposed interim steps. This does not mean that the remaining participants to the consultation automatically disagree.

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<sup>1</sup>[www.energy-regulators.eu](http://www.energy-regulators.eu)

RESPONDENTS' FEEDBACK ON ACER DRAFT FRAMEWORK GUIDELINES	ACER'S VIEWS
<b>I. General Provisions</b>	
<b>I.1 Scope</b>	
<p>The majority of respondents supported the scope of these Framework Guidelines. 12 parties stated their explicit support. Two expressed their agreement not to include emergency procedures within the scope.</p>	<p>ACER welcomes the broad agreement and support expressed by stakeholders.</p>
<p>One party asked for cross-border cooperation to be excluded from the scope.</p>	<p>ACER considers that it would be neither in line with the Gas Regulation nor with the stakeholder feedback to date to exclude cross-border cooperation from the scope of the Framework Guidelines.</p>
<p>Two respondents asked for the role of Distribution System Operators (DSOs) to be addressed more clearly within the scope, but not for this role to be harmonised.</p>	<p>ACER has recognised that DSOs are affected by the Framework Guidelines and have a role in implementing its provisions. ACER has a balanced view on the issue and does not propose to harmonise the role of DSOs beyond what is required for the achievement of the objectives of the Framework Guidelines. This matter is now clearly set out in the scope of the Framework Guidelines.</p>
<b>I.2. Objectives</b>	
<p>The majority of respondents welcomed the objectives of these Framework Guidelines. In particular, respondents supported the aim to achieve a liquid wholesale market, the 'leveling of the playing field' by the creation of effective competition across Europe, the preference for market-based balancing and the role of network users in balancing their own portfolios. Some respondents supported the harmonisation of balancing systems across Europe as an objective in itself.</p>	<p>ACER welcomes the support expressed by stakeholders.</p>
<p>One party said that an additional objective should be to reduce the administrative burden on network users.</p>	<p>In all ACER policy development, the aim is to take into account the effect of regulatory proposals have on the administrative burden imposed on the stakeholders. This consideration also fed into the development of the Framework Guidelines.</p>

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<b>1.3. Definitions</b>	
Some respondents proposed to clarify the definitions of 'Marginal Sell Price' and 'Marginal Buy Price'. Specifically, it was advised to align these definitions with Section 5.1. of the Framework Guidelines.	Without changing the substance, ACER improved the wording of these definitions taking some of these comments on board.
One respondent stated that Interconnectors do not fit under the current Transmission System definition.	ACER has amended the relevant definition accordingly.
One respondent suggested to distinguish between System Imbalance and Portfolio Imbalance.	ACER recognises the difference between the two concepts. However ACER did not find necessary to define them separately in the Framework Guidelines. The document is clear on whether it refers to the system's or the individual network user's imbalance.
Two respondents asked for a clearer definition of the term Linepack.	The purpose of the linepack provision is not to rule out an efficient and innovative use of linepack. This is why ACER did not narrow down the definition of Linepack so as to allow for such solutions in the future.
A number of respondents proposed amendments to the definitions, including for the terms: Balancing Period, Balancing Regime, Flexible gas, Network User and Short-term Flexible Gas Products.	ACER incorporated most of the suggested changes. In other cases ACER refers back to the definitions of the Gas Directive or Gas Regulation.
<b>1.4. Implementation</b>	
18 parties commented that the options to retain interim steps were appropriate since some markets may need more time to develop the necessary conditions than others. However, three parties highlighted that the Network Code needed to be prescriptive to ensure that progress happens, including close NRA supervision. One party stressed that interim steps should be bound by an expiry date.	European gas markets are at different stages of development. ACER is of the view that interim steps combined with strict implementation rules should ensure the development of an harmonised vision for gas balancing regimes across Europe. ACER thinks that fixing a common deadline for the removal of interim steps is not necessary. Continuous review of progress made should suffice and this is provided by the FG.

RESPONDENTS' FEEDBACK ON ACER DRAFT FRAMEWORK GUIDELINES	ACER'S VIEWS
<b>1.5. Other</b>	
Five parties pointed out that the Framework Guidelines should mention the interaction of gas and electricity markets.	The interaction with the electricity market was considered in the development of these Framework Guidelines, even if this is not explicitly stated in the text.
Two parties set out that Transmission System Operators (TSOs) cost recovery needed to be guaranteed.	One of the key roles for NRAs is to ensure that TSOs can recover their efficiently incurred costs. ACER did not intend to define or harmonise this role in these Framework Guidelines.
<b>2. Principles for Network Users and TSO Roles and Responsibilities</b>	
<b>2.1. General provisions</b>	
26 respondents supported the principle, as set out in the Framework Guidelines, that <b>network users are incentivised to balance their portfolio</b> which should, in most cases, result in a reduced role for TSOs.	ACER welcomes the broad agreement and support expressed by stakeholders.
Two parties stated that it should be made clear that <b>DSOs</b> are not involved in buying balancing gas. Three parties asked for DSOs to be more closely involved in the development of the Framework Guidelines and Network Code. One party said that DSOs' roles should not be harmonised. Six stated that, if DSO linepack is sold by TSOs, DSOs should be remunerated for that. Three other parties pointed out that the definition of linepack included in the Framework Guidelines included DSO linepack and that DSOs needed to be remunerated for its provision.	<p>The role of DSOs differs between markets. ACER does not share the view that this in itself poses a risk to the achievement of the objectives set out in the Framework Guidelines and therefore does not propose to harmonise the role of DSOs. ACER however does recognise that DSOs are affected by the Framework Guidelines, that they have a part to play in implementing the provisions and that their role in the balancing regime may change in some instances.</p> <p>Where DSOs provide a linepack service, this may impact the revenue they should be allowed to recover. Across Europe, there are different approaches to the regulation of DSO revenues. ACER did not consider that these approaches needed to be defined in these Framework Guidelines and that they should be harmonised across Europe.</p> <p>ACER has welcomed the cooperation with DSOs so far and hopes that they will continue to engage in the process during the network code development phase.</p>

RESPONDENTS' FEEDBACK ON ACER DRAFT FRAMEWORK GUIDELINES	ACER'S VIEWS
<p>Three parties expressed support for <b>linepack</b> to be allocated transparently by TSOs. Five other parties stated that this is inappropriate and that linepack should only be used by TSOs. If linepack is allocated, four respondents stated that this should be done transparently. Arguments in favour of market based allocation of linepack included that it could result in a more efficient use of linepack. Arguments against its allocation to network users included that it may create artificial scarcity for other network users or the TSO. One respondent said that TSOs should not offer linepack to neighbouring TSOs.</p>	<p>ACER does recognise the benefits and risks that come with the allocation of linepack by the TSOs as a commercial product. This is why ACER is not proposing for this to become a mandatory provision. But ACER is also of the view that such steps should not be ruled out for the future, if NRAs approve it, and in particular if this provides for more efficient use of the linepack.</p>
<p>An association representing network users stated that TSOs should also be asked to facilitate upwards and downwards <b>gas quality conversion</b>.</p>	<p>This issue is beyond the scope of these Framework Guidelines and may be addressed in the Framework Guidelines on Interoperability Rules.</p>
<p>One party asked for <b>ex-post (imbalance) trading</b> to be included in the Framework Guidelines.</p>	<p>The Framework Guidelines neither allows nor rules out such an arrangement. This should be an issue that is decided on a national basis.</p>
<p><b>2.2. Interim Measures</b></p>	
<p>Nine parties supported <b>tolerances</b> as an interim step. One party supported tolerances on an ongoing basis, under NRA supervision. One party stated that tolerances should reflect the actual technical capabilities of the transmission system. Two respondents criticised the application of tolerances, even in the interim. One reason for this is that tolerances could reduce network users' incentive to balance. The main argument in favour of tolerances is that it makes it easier for network users to balance their portfolio, which may be required in the absence of appropriate information or sufficient liquidity.</p>	<p>ACER considers that tolerances should be used as an interim step only. ACER agrees that there are benefits and risks to this approach and therefore considers it important that NRAs supervise the application of this interim step.</p>



RESPONDENTS' FEEDBACK ON ACER DRAFT FRAMEWORK GUIDELINES	ACER'S VIEWS
<p>One stakeholder proposed for this text to be moved to Section 5.2 (Imbalance charges). They interpret tolerance as an interim step (for example in the absence of appropriate information), which would not require a nomination to use the service. Imbalances within the tolerance would be settled in kind or against a more favourable price. This would reduce incentives for network users to balance.</p>	<p>ACER agreed to the approach and moved this text to Section 5.2, as proposed by the stakeholder.</p>
<p>Three respondents pointed out that tolerances should be applied to all network users in the same way. One party said that tolerances should differ depending on the category of user because they are most relevant for domestic customers.</p>	<p>ACER's view is that tolerances should not create discrimination and this is stated explicitly in the Framework Guidelines.</p>
<p><b>3. Buying and Selling of Flexible Gas and Balancing Services by TSOs</b></p>	
<p><b>3.1. Balancing services and flexible gas products</b></p>	
<p>36 respondents (amongst them TSOs and network users) expressed their support for our proposal for TSOs to procure <b>balancing services</b>, as far as possible, on the wholesale market on an equal footing with network users. The main arguments in favour of this were that it could make the TSOs' operations more efficient and have a positive impact on liquidity.</p>	<p>ACER welcomes this support and has retained the proposals.</p>
<p>Two respondents proposed to clarify that TSOs may procure balancing gas in another (e.g. adjacent) balancing zone to their own.</p>	<p>ACER agrees that there may be circumstances during which it is most appropriate for TSOs to procure balancing gas in adjacent markets as opposed to their own and has therefore not ruled this possibility out.</p>

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<p>Nine parties commented on our proposal for TSOs to be able to seek an <b>exemption</b> from the requirement to develop a balancing platform and stress the importance of the NRAs' and ACER's roles in the justification of this decision. Six of these parties argue that this should only be allowed in the interim.</p>	<p>ACER welcomes the support expressed by stakeholders and retained the proposal, including the strict procedures for the application of this interim step.</p>
<p>14 respondents expressed their support for the definition of <b>standardised balancing products</b> in the Network Code.</p> <p>Three respondents proposed for the Framework Guidelines to be more specific on the design of standardised balancing products. Three respondents clarified that in their view standardised balancing products should only be short-term products.</p> <p>Two parties argued that standardised products should be designed in a way which allows small competitors to provide balancing services.</p>	<p>ACER welcomes this feedback. ACER's view is that ENTSOG is best placed to define these products in the Network Code and does not share the view that the Framework Guidelines need to become more prescriptive on this issue.</p> <p>The Framework Guidelines make clear that TSOs shall maximise the amount of their gas balancing through the buying and selling of short-term standardised products on the wholesale market.</p>
<p>One network user stated that existing contracts should be recognised and therefore criticised our proposal for NRAs to incentivise TSOs to reduce the volume of their long-term contracts.</p> <p>An association representing network users expressed its support for this policy.</p> <p>Four parties said that TSOs should be required to release storage capacity.</p>	<p>In order to create effective competition, some of the flexibility held by TSOs must be released and offered to the market. ACER has therefore decided to retain the proposals contained in the paragraph on <b>TSO release</b>.</p>
<p>One party stated that the Framework Guidelines did not allow for <b>balancing actions</b> to be taken during the weekend and that this needed to be made possible.</p>	<p>Balancing actions can be taken at all times, and that this is reflected in the Framework Guidelines.</p>

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<p><b>3.2. Interim measures</b></p>	
<p>14 parties, including TSOs and network users, consider <b>balancing platforms</b> a useful interim step (but not a permanent feature of balancing regime). Two parties stated that balancing platforms may need to remain a part of balancing regimes beyond the interim. They argue that some balancing products will never be available on the wholesale market. Two respondents, including a TSO, see no merit in balancing platforms (even as an interim step) and question whether these will bring about more liquidity.</p> <p>An association of network users pointed out that it is important for the balancing platform to be designed in such way as to allow small competitors to participate on it. One party proposed to make the participation on the balancing platform as an interim step mandatory.</p> <p>One party said that whilst the use of balancing platforms may in certain circumstances cost more than to have a long-term contract in place, they should still be implemented as this would have a positive impact on liquidity.</p>	<p>One of the key principles at the heart of these Framework Guidelines is the procurement of balancing services on the wholesale market. However, ACER does recognise that under certain circumstances (as an interim step) it may be appropriate to allow TSOs to procure their balancing gas on a balancing platform instead. Following the feedback to this consultation, ACER has now clarified that one of these scenarios, which allow for this interim step, is where locational or temporal products are not available on the wholesale market. ACER retained the criteria in the Framework Guidelines according to which balancing platforms should be proposed in the Network Code, as interim measures.</p> <p>The Framework Guidelines state explicitly that any network user (even small ones) shall have the right to participate in the balancing platform and that any transactions shall be undertaken on a transparent and non-discriminatory basis.</p>
<p><b>4. Balancing Period and Nomination Procedures</b></p>	
<p><b>4.1. Balancing period</b></p>	
<p>20 respondents stated that the Network Code should introduce a harmonised <b>daily balancing regime</b> across Europe, according to which network users are cashed out against the difference between their inputs and offtakes (the imbalance) at the end of the gas day. Three parties stated it was not necessary to harmonise the length or timing of balancing periods. Five parties argued that the “cumulative balancing regime”, as introduced in the Netherlands on 1 April 2011, may be superior to a daily balancing regime. Another</p>	<p>In line with the feedback received from the majority of stakeholders, ACER has retained its proposal for a harmonised daily balancing period.</p>

RESPONDENTS' FEEDBACK ON ACER DRAFT FRAMEWORK GUIDELINES	ACER'S VIEWS
<p>party argued that whilst the cumulative system was an improvement in the Netherlands, the introduction of a daily balancing regime would have been even better as this would have enabled more parties to participate in the balancing market. Two parties asked for this system to be considered as an interim step only.</p>	
<p>Most of the 20 respondents supporting a <b>harmonised gas day</b> did not specify what the timing for this should be. Eight explicitly said that they supported our proposal (to align the gas day in the balancing FG with the timing of the daily capacity product in the CAM Network Code). Nine respondents stated that we should consider aligning the timing of the gas day with the calendar day to make it consistent with electricity markets. Two respondents raised concerns with regards to this alignment.</p>	<p>ACER welcomes the agreement on the need to harmonise the balancing period. While alignment with the electricity day could be beneficial, ACER considers the most important to be the alignment with the daily capacity product in the CAM Framework Guidelines. ACER proposal has remained unchanged for this reason.</p>
<p>24 respondents said that <b>within-day obligations</b> could be a permanent feature of some European balancing regimes. Eight respondents (including two TSOs, network users and consumers) stated that within-day obligations should not be applied to network users except potentially in the interim. Arguments in favour of within-day obligations included that they reward those whose behaviour is less costly and that, overall, it may result in more efficient system use. Arguments against within-day obligations include that they could become a barrier to trade because they add complexity, particularly if they differ depending on the location.</p> <p>13 respondents stated that the Network Code needed to set out a harmonised range of acceptable within-day obligations. Six of them said that the Framework Guidelines needed to be more specific in this regard. ENTSOG and two TSOs argued that within-day obligations should be allowed and that TSOs should have more freedom to design them than the current</p>	<p>In a daily balancing regime individual imbalance charges are determined based on the network users' position at the end of the day. This may mean that the TSO needs to take balancing actions to address imbalances during the day. Where this is the case, it will do so on the wholesale market, as set out in Chapter 4 of the Framework Guidelines. Where this results in significant costs, such a regime could result in an inefficient level of socialisation across all network users. In those circumstances, to ensure that the balancing regime is market based, i.e. encourages network users to balance their portfolios rather than leaving it to the TSO, it may be appropriate to aim to target some of these costs at the network users who cause them. As such, certain obligations may need to be placed on network users regarding their balancing position during the day.</p> <p>In light of this feedback, ACER has decided to retain the option for within-day obligations to be imposed subject to specified criteria and NRA approval. ACER does not consider it appropriate to rule out or propose specific within-day obligations in the Framework Guidelines, given the different nature of transmission systems across Europe. However, the criteria defined in the FG aim that any within-day obligation need to meet certain benchmarks that now are made clearer and stricter in the Framework Guidelines, while the role for NRA approval in terms</p>

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<p>Framework Guidelines allow.</p> <p>Five parties said that within-day obligations should be designed as incentives as opposed to penalties.</p> <p>Three parties said in the context of within-day obligations that it was appropriate to rule out hourly balancing regimes. One party specifically stated that it should not be ruled out. ENTSOG proposed that within-day obligations could be a restriction on the change of flows during the day, or a requirement for flows to remain within a defined band or a system modelled on the “cumulative” balancing regime.</p>	<p>of approval of the within-day obligations and the role of ACER in the monitoring of balancing provisions remain in place. In particular the purpose of the requirement for within-day information shall be that information is provided more frequently than the timing of the obligation.</p>
<p><b>4.2. Nomination procedure</b></p>	
<p>11 respondents, including TSOs and network users asked for <b>nomination procedures</b> to be designed in such a way as to give network users the option to adjust their nomination as late as possible. Two respondents say this should be possible until 2 hours before the end of the gas day. Some parties highlighted that the European Commission’s proposals on Congestion Management Procedures did not allow for this flexibility.</p> <p>One party said that there should be no requirement for entry and exit nominations to match. Two parties, including ENTSOG, said that this was needed in the interim. One TSO said this needed to be a permanent feature of balancing regime.</p>	<p>ACER agrees that network users should be allowed to adjust their nomination during the day. In accordance with other legal obligations, the Network Code shall set out criteria for nomination procedures that minimise response times and thus enable network users to do their nominations as late as possible.</p> <p>Clearly a balancing regime as set out in the Framework Guidelines incentivises network users to match their entry and exit flows, however ACER does not see the need for an explicit rule for entry and exit nominations to match.</p>

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<b>5. Imbalance Charges</b>	
<b>5.1. General provisions</b>	
<p>17 parties agree with the proposal to base imbalance charges on the marginal price. Most shared our view in that this provided the right incentives whilst not being penal and was related to relevant cost. Four parties disagree: two would prefer using the average price, one would prefer the use of an imbalance charge based on a cost proxy and another did not provide an alternative.</p>	<p>ACER welcomes the support expressed by stakeholders. ACER considers that using the marginal price to determine imbalance charges strikes the right balance between cost reflectivity and giving incentives.</p>
<p>Eight respondents expressed their agreement with the position in the Framework Guidelines that imbalances should result in the application of imbalance charges even when TSOs have taken no balancing action.</p> <p>Three network users said that imbalance charges should only be applied if the TSO takes a balancing action (and not when no TSO balancing action was taken).</p>	<p>ACER considers that in order to provide appropriate incentives and to remain within the spirit of a daily balancing regime, network users should be financially settled according to their position at the end of the gas day, regardless whether or not the TSO has taken a balancing action.</p>
<p>Eight parties would like the Framework Guidelines to be clearer on how it can leave TSOs cost neutral as a result of their balancing activities. Three parties said that TSOs should be incentivised by NRAs to balance the system as efficiently as possible.</p> <p>Nine respondents highlighted that our approach did not allow the TSO to recover the precise amount it spent on balancing actions. Where the TSO recovers more or less than that, these parties say some socialisation may need to occur. They highlight that the Framework Guidelines could explain better how this would take place. One TSO said the level of cost which is socialised should be minimised.</p>	<p>ACER acknowledges that using the marginal price may not lead to an exact cost recovery. NRAs are responsible to ensure that TSOs are able to recover appropriately their efficiently incurred costs. There are different ways to achieve this and it is not necessary to harmonise these approaches in order to achieve the objectives of these Framework Guidelines.</p>

RESPONDENTS' FEEDBACK ON ACER DRAFT FRAMEWORK GUIDELINES	ACER'S VIEWS
<p>Two parties representing network users stated that credit arrangements should be introduced in the Network Code to protect network users and TSOs from network users defaulting on their imbalance charges.</p>	<p>ACER does not consider that the harmonisation of credit arrangements is required for the purpose of these Framework Guidelines.</p>
<p><b>5.2. Interim Measures</b></p>	
<p>Three parties expressed their agreement with the proposed interim step to base imbalance charges on a cost proxy. ENTSOG argued that this cost proxy should provide stronger incentives than the marginal price in the interim. One party rejected the concept of a cost proxy as it was not cost reflective. Two respondents pointed out that it was important for the cost proxy to be based on cost that is relevant to the specific market.</p>	<p>ACER acknowledges that the use of the marginal price is preferable to the use of a cost proxy. However, in certain circumstances (for example where the marginal price cannot be derived because an exemption as set out in Chapter 3 is in place) a cost proxy may be an appropriate interim step. ACER agrees that balancing rules should move towards using the marginal price as the development of markets progresses beyond the interim.</p>
<p><b>6. TSO Information Provision Obligations</b></p>	
<p>Most parties agreed that <b>information provision</b> was essential to enable network users to balance their portfolio as set out in the Framework Guidelines. The main downsides of information provision obligations were considered to be their cost implications.</p>	<p>ACER welcomes the broad agreement and support expressed by stakeholders. ACER understands the costs this can cause and reflected this understanding in the Framework Guidelines.</p>
<p>12 respondents said that the frequency of information provision should be greater than set out in the Framework Guidelines (i.e. more than twice a day and closer to real time). One party made the point that information needed to be more frequent than the balancing requirements (i.e. more frequent than any within-day obligations may be).</p> <p>Seven parties (including ENTSOG) set out the cost implications of these proposals and suggest a cost-benefit analysis to identify whether the requirements are appropriate. Some of these 7 parties indicated that they consider that the frequency proposed was too high.</p>	<p>ACER is of the view that costs and benefits may differ depending on the circumstances. Therefore, whilst we retain the view that a minimum level of data must be provided as set out in the Framework Guidelines, ACER is of the view that in some circumstances stricter information provision requirements may be necessary, in particular where within-day obligations apply. The Framework Guidelines therefore say that a cost-benefit analysis should be undertaken by TSOs with DSOs consulted upon and that NRAs may require more frequent information provision on the basis of this analysis.</p>

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<p>Two parties proposed for TSOs to also be more transparent about (anonymised) market shares of providers of balancing gas and balancing actions taken by the TSO.</p>	<p>ACER agrees that TSO balancing actions should be done on a transparent basis. ACER does not consider proportionate to require in the Framework Guidelines the publication of market shares of flexibility providers.</p>
<p>10 parties stated the significance of the cooperation between TSOs and DSOs regarding information provision. They implied that the role of DSOs should be better defined in the Framework Guidelines for this purpose.</p> <p>Four parties raised that it was important for DSOs to be remunerated for their contribution to the TSOs' information provision requirements.</p> <p>One party stated that data from DSOs was less important.</p>	<p>ACER agrees that DSOs play an important role in the provision of this information which is now reflected in the Framework Guidelines. ACER is aware that the DSOs may incur costs in doing this. Across Europe, there are different approaches to the regulation of DSO revenues and these approaches do not need to be harmonised however for the purpose of these Framework Guidelines.</p>
<p>Three respondents highlighted the importance for information to be made available in English and in a user friendly format.</p>	<p>ACER agrees with this comment and the Framework Guidelines now clarify that information needs to be made available in a harmonised format, in English as well as the local language (by referring to Chapter 3, Annex I of the EC Regulation No 715/2009, whereby Points 3.1.1.(c) and (g) address these requirements).</p>
<p>One party suggested that the cost of information provision should be targeted at those who benefit from it, while another party argued the opposite, claiming that this should be treated as a standard service which allows access to the system.</p>	<p>ACER is of the view that the provision of a minimum level of transparency, as set out in the Framework Guidelines, is beneficial to the development of the market. ACER retained its position to provide such information for free.</p>
<p><b>7. Cross-Border Cooperation</b></p>	
<p>One party representing power exchanges said that <b>market coupling</b> was a good proposal for inclusion in the Network Code.</p> <p>One party said that more information had to be provided before such a decision could be taken.</p> <p>Four respondents expressed a preference for a decision on market coupling to be made in the context of the gas target model as opposed to</p>	<p>The Framework Guidelines do not propose for TSOs to be obliged to introduce market coupling. The Framework Guidelines call for TSOs to improve the way in which they interact with each other across balancing zones, which may include to explore the idea of market coupling.</p>



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<p>these Framework Guidelines and suggested that this should not be included in this Network Code. It was also argued that this should be seen as a CMP tool rather than a balancing tool.</p>	
<p>Six respondents expressed support for the <b>merging of balancing zones</b> (one of them stating that this was the most important priority).</p> <p>One TSO said that the ambition should be to have one balancing zone per Member State. One respondent said that the merging of balancing zones was no end in itself and that this should be market driven. One respondent proposed for excess revenues from the balancing mechanism to be used to facilitate zone merging. Arguments in favour of merging balancing zones included that this removed barriers to trade and may result in more liquidity. Arguments against such a policy included that this may be very difficult to implement and lead to a greater TSO role in balancing the system.</p>	<p>A number of European balancing zones have merged in recent years. TSOs should continue to explore whether further mergers are beneficial. ACER would promote the cooperation of TSOs in balancing in order to remove barriers to trade and create in more liquidity, but at this stage does not propose to TSOs to be obliged to merge their balancing zones.</p>
<p>Six respondents said that cross-border balancing should be led by network users, not TSOs. Five of them said that there should be no TSO cross-border balancing and one said that this chapter was not needed in the FG at all. These parties argued that shippers are best placed to move gas from where it is abundant to where it is most valued.</p> <p>Eight respondents said that cross-border cooperation by TSOs was important. Two of these (including ENTSOG) said that current initiatives by TSOs in this regard were promising and one party said this could be progressed through the regional initiatives. However, one party pointed out that assessing this work may take longer than 12 months and that this would put into question the timescales set out in the Framework Guidelines.</p>	<p>ACER agrees that network users are best placed to move gas to where it is most valued. The Framework Guidelines do not propose for TSOs to compete with network users, but only to encourage them to cooperate more efficiently.</p> <p>Having said that, TSOs shall be still called upon to develop mechanisms to integrate the markets and review them regularly, beyond the network code development phase. ACER agrees and encourages to use Regional Initiatives as a platform for cross-border cooperation in balancing. This platform should provide for stakeholder discussions on measures that TSOs propose to take on market integration.</p>

RESPONDENTS' FEEDBACK ON ACER DRAFT FRAMEWORK GUIDELINES	ACER'S VIEWS
<b>8. Compliance</b>	
<p>19 parties stated that the <b>implementation timescales</b> are too ambitious and proposed longer timescales, such as 18 months, 24 months or no deadline at all.</p> <p>Other parties sought the imposition of strict timetables for implementation, and the supervision on NRAs.</p>	<p>Whilst these timescales are ambitious, ACER decided to retain the deadlines, and end the interim regimes within five years of the entry into force of the Network Code in order to support the implementation of the internal gas market by 2014 (Council decision, 4 February 2011) and the creation of a well-functioning gas market by this deadline and beyond. This deadline also reflects the result of the public consultation (see the review of stakeholder remarks under Section 3.2).</p>

### 3. Modifications to the Framework Guidelines resulting from the public consultation

As a result of the public consultation, ACER improved the text of the Framework Guidelines and proposed various changes to the text as summarised in the table below. The table only collects the substantial changes made by ACER.

Additional improvements to the text of the Framework Guidelines were introduced in most sections but as they had no impact on provisions they are not mentioned in the table below. Changes of such nature were mainly made in Sections 1.5 ; 4.1 ; 5.1 and 5.2.

General issues	Changes in Framework Guidelines
<p><b>Scope (Section 1.2) and Objectives (Section 1.3)</b></p>	<p>The General Provisions of the Framework Guidelines have been modified at various points, to improve clarity, in particular the following points should be mentioned:</p> <ul style="list-style-type: none"> <li>• on the Scope: the Framework Guideline now sets out clearly the level of DSO involvement with an emphasis that TSOs and DSOs shall cooperate in developing and implementing the Network Code, where relevant and appropriate;</li> <li>• on the Objectives: the role of temporal and locational products absent wholesale markets has been clarified. Temporal and locational products could be made available on balancing platforms should interim steps apply.</li> </ul>
<p><b>Definitions (Section 1.4)</b></p>	<p>As a general provision, the Framework Guideline clarifies that the definitions of the Gas Directive and Gas Regulation shall apply (and thus those definitions are not repeated in the Framework Guidelines).</p> <p>Three new definitions appear in the section (<i>Temporal products, Locational products and Joint balancing platform</i>). These definitions were explained either in full or partially in the previous version of the Draft Framework Guidelines that ACER proposed for consultation.</p> <p>The definition of <i>Balancing zone</i> lists the pieces of infrastructure that are part of a balancing zone, as follows:</p> <ul style="list-style-type: none"> <li>• Transmission systems are included;</li> <li>• Distribution systems may or may not be included;</li> <li>• LNG/storage facilities are not included, but clearly their injections feed into the balancing zone.</li> </ul> <p>This refinement provides for the extensive use of the definition in the Framework Guidelines.</p> <p>The definitions on marginal prices (<i>Marginal Buy Price and Marginal Sell Price</i>) underwent redrafting to allow for their better understanding.</p>

General issues	Changes in Framework Guidelines
<p><b>Principles for network users and TSO roles and responsibilities (Chapter 2)</b></p>	<p>Section 2.2, on Interim measures merged with Section 5.2, another section dedicated to Interim measures (for Imbalance charges), as an outcome of the public consultation.</p>
<p><b>Buying and selling of flexible gas and balancing services by TSOs (Chapter 3)</b></p>	<p>The meaning of cost neutrality has been set out clearly in Section 3.1.</p> <p>The Section 3.2 (on Interim measures) clarifies the role of temporal and locational products.</p> <p>This section is also more explicit on the exemption process, whereby NRAs shall publish the contract features as well as the duration of the exempted contract to the approval of which they agreed. It provides also specific exemption rules applicable for smaller markets.</p> <p>A cross-reference with the compliance and monitoring chapter (Chapter 8) is made at the end of this section.</p> <p>Other modifications to the text, more general in nature, aimed to improve clarity without changing the provisions.</p>
<p><b>Within-day obligations (Section 4.2)</b></p>	<p>The principles of daily balancing was retained, being supported by the public consultation.</p> <p>The provisions on within-day obligations clarify now that within-day measures shall not undermine daily balancing.</p> <p>Within-day obligations could be approved by the NRA if it is objectively proved that they are beneficial for system users.</p> <p>ACER opinion and recommendation could be also sought if TSO obligations are likely to have an adverse effect.</p>
<p><b>TSO information provision obligations (Chapter 6)</b></p>	<p>Concerning information provision the Framework Guidelines require more frequent information provision from TSOs, if a cost-benefit analysis proves that the increase in frequency is beneficial.</p> <p>The text of the Framework Guidelines invite DSOs to provide information for TSOs, in order to enable TSO compliance with the Framework Guidelines.</p> <p>References to Annex I of the Regulation (EC) No 715/2009 have been made to ensure that transparency requirements are followed up appropriately.</p>

General issues	Changes in Framework Guidelines
<p><b>Cross-border cooperation (Chapter 7)</b></p>	<p>ACER’s advisory role in relation to market integration has been further clarified.</p> <p>The role the regional initiatives shall play has been set out in the text.</p>
<p><b>Transitional period, compliance and monitoring (Chapter 8)</b></p>	<p>The title of the chapter fully reflects now its contents. This chapter puts forward with greater clarity ACER’s responsibilities in compliance check and monitoring as well as the advisory role it shall play in relation to NRAs.</p> <p>The interim regimes on balancing shall expire within five years to the entry into force of the Network Code following market experiences and to maintain the credibility of the change process towards wholesale market balancing.</p>

## ANNEX I – LIST OF RESPONDENTS\*

Respondent	Country of origin	Type
<b>Anigas (Associazione Nazionale Industriali GAS)</b>	Italy	Association of Italian gas industry
<b>BDEW (Bundesverband der Energie- und Wasserwirtschaft)</b>	Germany	Association of German energy and water industries
<b>BNE (Bundesverband Neuer Enerianbieter)</b>	Germany	Association of German new energy suppliers
<b>BP</b>	United Kingdom	Network user
<b>CEDEC (European federation of local energy companies)</b>	EU	European federation of local energy companies
<b>Centrica</b>	United Kingdom	Network user and producer
<b>CEPSA (Gas Comercializadora)</b>	Spain	Network user and producer
<b>DONG energy</b>	Denmark	Network user
<b>E.ON</b>	Germany	Network user
<b>EconGas GmbH</b>	Austria	Network user
<b>EDF</b>	France	Network user
<b>EDF Energy</b>	United Kingdom	Network user
<b>Edison</b>	Italy	Network user
<b>EFET (European Federation of Energy Traders)</b>	EU	Association of energy traders
<b>Enagas</b>	Spain	TSO

Respondent	Country of origin	Type
<b>ENBW (Energie Baden-Württemberg)</b>	Germany	Network user
<b>Energie Nederland</b>	Netherlands	Network user
<b>ENI</b>	Italy	Network user
<b>ENTSOG (European network of transmission system operators)</b>	EU	Association of transmission system operators (TSO)
<b>Eurelectric</b>	EU	Association of the electricity industry in Europe
<b>Eurogas</b>	EU	Association of the gas industry in Europe
<b>Europex</b>	EU	Association of European energy exchanges
<b>ExxonMobil (Gas &amp; Power Marketing)</b>	United Kingdom	Network user and producer
<b>Gas Forum</b>	United Kingdom	Network users
<b>Gas Natural Fenosa</b>	Spain	Network user
<b>Gaslink</b>	Ireland	TSO
<b>GasTerra</b>	Netherlands	TSO
<b>GDF Suez</b>	France	Network user
<b>GEODE (Association of European independent distribution companies of gas and electricity)</b>	EU	Association of distribution system operators (DSO)
<b>Iberdola</b>	Spain	Network user
<b>IFIEC Europe</b>	EU	International Federation of Industrial Energy Consumers
<b>Initiative Regelenergie</b>	Germany	Network users
<b>Interconnector UK</b>	United Kingdom	TSO (interconnector)

Respondent	Country of origin	Type
<b>J.P. Morgan Securities</b>	United Kingdom	Investment bank
<b>National Grid Gas</b>	United Kingdom	TSO
<b>Naturgas Energia (EDP GROUP)</b>	Portugal	Network user
<b>Naturgas Energia Distribucion</b>	Portugal	DSO
<b>OGP</b>	International	International association of oil & gas producers
<b>Poweo</b>	France	Network user
<b>RWE Supply &amp; Trading</b>	United Kingdom	Network user
<b>Sedigas</b>	Spain	Association of the Spanish gas sector
<b>Shell Energy Europe</b>	United Kingdom	Network user
<b>Sorgenia</b>	Italy	Network user
<b>SSE</b>	United Kingdom	Network user
<b>Statoil (UK)</b>	United Kingdom	Network user and producer
<b>Thuga</b>	Germany	Investor (DSO interest)
<b>Total Gas and Power</b>	United Kingdom	Network user
<b>UNIDEN (Union des Industries utilisatrices d'énergie)</b>	France	Union of French energy utility industries
<b>Uprigaz</b>	France	Association of the French gas industry
<b>Verbund</b>	Austria	Network user
<b>VOEG</b>	Netherlands	Network users
* 5 additional responses were submitted in confidence.		

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