



**FOSG Answer to Public Consultation on ACER evaluation under Article 34 of
Regulation 713/2009**

Brussels, 6 August 2013

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GENERAL INFORMATION:

1. Please specify which institution/organization you represent:

- a) EU Institution
- b) National Regulatory Authority/Association of Regulators
- c) Transmission system operator
- d) Consumers' representatives
- e) Industry representatives (companies, associations)
☒
- f) Academia
- g) Other, please specify

2. Please specify which area of work of the Agency you are aware of/familiar with?

- a) Development of Framework Guidelines and Network Codes for gas and electricity
☒
- b) Regional Initiatives
- c) Infrastructure and Ten Year Network Development Plans (TYNDPs)
☒
- d) Monitoring and reporting on the electricity and gas sectors
- e) Monitoring of wholesale energy trading and market integrity (under REMIT)
- f) Exemptions from third party access and tariff regulation for major new infrastructures
☒
- g) Coordination and promotion of cooperation between National Regulatory Authorities
- h) Other (please specify)

RESULTS ACHIEVED BY THE AGENCY:

3. How do you evaluate the results achieved by the Agency so far in relation to its objective, mandate and tasks?

- a) How do you rate in general the results of the Agency achieved since its establishment?
Taking into account the objectives that the Agency has to fulfil and probably also considering the limited time it has had to perform them, we would rate the results as “being in progress”.
- b) Has the Agency so far met its objectives as defined in the third energy package and complementary legislation?
We think the same answer as for the previous question is appropriate: “in progress”.
- c) Which of its tasks has the Agency in your view executed particularly well?
The Agency brought more transparency to the existing markets.
- d) Are there any tasks which in your view the Agency has not given sufficient attention and/or which it has not (fully) executed?
Considering ACER is effectively installed since a couple of years, and considering there is still no integrated electricity market neither total free movement of electricity, we believe this should remain ACER’s main priority: ensuring the EU reaches these targets. Moreover, we believe more should be done for the development of more grid expansion in the medium term following as much as possible a top-down EU approach. Appropriate European wide RES optimisation mechanisms needs to be available asap. A new market model where all energy sources can compete in a level playing field and at EU level should also become a priority for the Agency.

4. What do you think of the results of the Agency measured against ACER Annual Work Programmes?

- a) Do you follow the development of the ACER Annual Work Programmes (by taking part in public consultations, workshops organized by the Agency)?
We certainly do when it is relevant to FOSG. We also try to follow them via our members.
- b) Do you consider that ACER has set the right priorities in its Annual Work Programmes?
We refer to the above mentioned comments on network expansion and the need for a truly European Internal Market. Adequate market models for all energies (RES and non RES) are also important.
- c) Do you follow the Work Programme implementation through the reporting published by ACER in its Annual Activity Reports?
We do not follow the work programme in detail; we trust ACER is an Institution that will fulfil its obligations and that the EC and the EP controls give sufficient guarantee. Do you think that ACER carried out its Work Programmes? If not, please indicate where this has not been the case.
We are not sufficiently informed to have a learned position hereon.

WORKING METHODS:

5. Governance, organizational structure, independence and resources:

- a) Are you aware of the organization of ACER and its governance arrangements (Administrative Board, Board of Regulators, Board of Appeal, Director)? If yes, do you consider the governance arrangements suited for the fulfilment of ACER's objectives, mandate and tasks?
We are not sufficiently informed to have a learned position hereon. However, the structure seems in line with the goals of the Agency.
- b) How do you assess National Regulatory Authorities' coordination and cooperation through the Agency? Has the coordination and cooperation improved since the establishment of the Agency?
We do not see significant changes compared to the past; we therefore believe there is still margin for improvement. However, with the fulfilment of the roadmap set in Regulation 713/2009 improvements should be achieved.
- c) Please specify to what extent ACER has succeeded in your view in setting up effective and efficient working relationships with the EU institutions, NRAs, ENTSOs and other stakeholders, the public at large?
We believe there is still margin for improvement and that all these Institutions are truly engaged in the process. At least with FOSG, no formal relationship has been established so far.
- d) Please specify the extent to which you think that ACER is independent (from gas and electricity companies, from Governments, from TSOs, from the Commission)?
It appears to be fully independent from industry. We do not have the necessary information to know to what extent it is effectively independent from the EC or governments.
- e) Do you consider that ACER has adequate resources to carry out its tasks?
We are not sufficiently informed to have a learned position hereon.

6. Communication and Transparency:

- a) How do you rate in general ACER's communication? Are you sufficiently informed of its activities? Which channels of communication do you consider to be most effective?
(rating 6.5/10). Yes. Mail and internet.
- b) How do you rate ACER's website? How often have you visited it in the past 3 months? Did you find what you were looking for?
We visit from time to time and although acceptable it could be improved (rating 6.5/10).
- c) Did you read any of the documents that ACER has produced so far? Which ones did you consider particularly useful? Which ones did you consider less useful and why?
We have examined some of those documents, not all, and those were considered useful.

- d) What is your assessment of the quality of the documents that ACER has produced so far (framework guidelines, recommendations, guidelines, opinions, others)? Do they contain a clear position? Are they clearly drafted?

The documents we looked at could probably have expressed more direct comments or positions and should have from time to time be more concrete. One example was the ACER answer to the EP regarding capacity payments.

- e) Are the public consultation arrangements of ACER sufficient, efficient and effective? In particular, does the Agency make efficient use of communication tools: Workshops? Publications? Website? Other?

Public consultation arrangements of ACER are definitely sufficient. There is margin of improvement in terms of effectiveness since two of its major objectives, internal energy market (IEM) and a pan-European network, are not yet achieved as desired.

7. Suggestions for improvement to ACER's working methods

- a) Do you have any suggestions for improvement to ACER's working methods?

The main point of attention does not regard the working methods of ACER; no changes in working methods will be compensated if there is lack of proper instruments for ACER to implement its goals. Considering the need for an efficient regulatory framework, ACER must always consider the regional specific issues as well as the incentives for the construction of an efficient IEM.

- b) Do you see a need for changes to Regulation 713/2009? If so, which changes and why?

Future review of Regulation of 713/2009 would be appropriate to assess its effectiveness, for example, in achieving an efficient cross border regulatory framework.