



**Compliance with Transparency
Requirements of
Gas Regulation 1775/2005
- An EREG Monitoring Report**
(of transparency requirements and assessing market
demand on transparency)

Ref: E07-TRA-02-03

18 July 2007

Table of Contents

1. PREFACE	7
2. EXECUTIVE SUMMARY	8
3. INTRODUCTION.....	11
3.1. Scope and Method.....	11
3.2. Countries and TSOs covered	11
3.3. Updating of information and actuality, including brief history of the report	12
4. MARKET ASSESSMENT	16
4.1. Energy Sector Inquiry – Key Findings on Transparency	16
4.2. ERGEG Assessment of the Energy Markets 2006 – Key Findings on Transparency ..	16
4.3. Other Input.....	17
4.4. Re-iterating the role of transparency: The XIIIth Madrid Forum	17
5. ERGEG MONITORING RESULTS	19
5.1. Access to systems (Question set 1)	19
5.2. Tariffs (Question set 2)	24
5.3. TPA Services (Question set 3)	26
5.4. Modification of Conditions – Consideration of Market Demand (Question set 4)	31
5.5. Capacity Allocation and Congestion Management (Question set 5)	37
5.6. Balancing (Question set 6)	39
5.7. Technical Information (Question set 7).....	41
5.8. Capacity (Question set 8)	42
5.9. Exemptions (Question set 9)	52
5.10. Additional Information (Question set 10).....	59
6. THE WAY FORWARD: RECOMMENDATIONS AND OUTLOOK	61
6.1. Analysis of responses by means of aggregation	61
6.2. Recommendations and outlook	62
ANNEX 1 – QUESTIONNAIRE COVER NOTE	65
ANNEX 2 – QUESTIONNAIRE	68
ANNEX 3 – METHODOLOGY: AGGREGATION OF FINDINGS BY TOPIC AREA	72

List of Figures

Figure 1: Do the systems require the use of passwords?	19
Figure 2: Do the systems require the use of cookies?	20
Figure 3: Is information easy to find using these systems?	20
Figure 4: Is service frequently interrupted?	21
Figure 5: Is information available in English?	21
Figure 6: Do any other factors negatively impact the systems' user-friendliness?	22
Figure 7: Does the TSO separately charge network users for information requests?	23
Figure 8: If so, are the charges duly substantiated?	24
Figure 9: Are all tariffs applicable to the system of the TSO published?	25
Figure 10: If yes, please specify who publishes the information?	25
Figure 11: If yes, please specify who publishes the methodology to calculate tariffs?	26
Figure 12: Provision of detailed information by the TSO	27
Figure 13: Does the TSO offer the following services online?	28
Figure 14: Does the TSO publish a standard transportation contract?	28
Figure 15: Does the TSO publish a network code?	29
Figure 16: Does the TSO publish standard conditions?	30
Figure 17: Are the required guarantees published?	30
Figure 18: Are planned maintenance periods published?	31
Figure 19: If so, is such information provided to all network users?	32
Figure 20: Are changes to planned maintenance periods published?	32
Figure 21: If so, is such information provided to all network users?	33
Figure 22: Are users notified of unplanned maintenance periods?	34
Figure 23: If so, is such information provided to all network users?	34
Figure 24: Does the TSO publish regularly updated information?	35
Figure 25: If so, is such information provided to all network users?	36
Figure 26: Is a daily log of the actual maintenance and flow disruptions available on request?	36
Figure 27: Does the TSO publish provisions on capacity allocation?	37
Figure 28: Does the TSO publish provisions on congestion management?	38
Figure 29: Does the TSO publish provisions on anti-hoarding procedures?	38
Figure 30: Does the TSO publish provisions on re-utilisation procedures?	39
Figure 31: Are flexibility and tolerance levels included in transportation?	40
Figure 32: Are the methodology and final tariffs for imbalance charges public?	40
Figure 33: Are the charges for this service public?	41
Figure 34: Is the following information made available by the TSO?	42
Figure 35: Does the TSO publish the maximum technical capacity?	42

Figure 36: Does the TSO publish the maximum technical capacity (entry/counter flow)?	43
Figure 37: Does the TSO publish the maximum technical capacity (exit/counter flow)?.....	44
Figure 38: Does the TSO publish the total contracted firm capacity?	44
Figure 39: Does the TSO publish the total contracted interruptible capacity?	45
Figure 40: Does the TSO publish the available firm capacity?	45
Figure 41: Does the TSO publish online a forecast for available and contracted capacity?	46
Figure 42: If yes, does the TSO update the forecast?	47
Figure 43: Does the TSO publish online daily updates?	47
Figure 44: Does the TSO publish online a long-term forecast of available capacities?	48
Figure 45: Does the TSO publish monthly capacity utilisation rates?	49
Figure 46: Does the online publication include a comparison between capacities?	49
Figure 47: Does the TSO publish online annual average flows?	50
Figure 48: Do the relevant points include all of the points listed in Annex 3.2 of the Regulation?	51
Figure 49: Are the relevant points approved by your regulatory authority?	51
Figure 50: Does the TSO limit publication of information (3 minus shipper rule)?	52
Figure 51: Does the TSO publish aggregated information on available capacities?.....	53
Figure 52: Has the exemption been authorized by the regulatory authority?	53
Figure 53: Does the TSO limit publication of information on the capacity situation?	54
Figure 54: Has this been authorized by the regulatory authority?	55
Figure 55: Exceptions for [...] points out of a total of [...] points have been approved	55
Figure 56: What are the reasons for regulatory authorization?	56
Figure 57: Are there any legal provisions prohibiting the publication of confidential information?	57
Figure 58: Contractual provisions prohibiting the publication of confidential information.....	57
Figure 59: Does the TSO include in the number of network users (secondary market)?.....	58
Figure 60: Does the TSO publish the number of users?	59
Figure 61: Does the TSO publish information (beyond the transparency requirements)?	60
Figure 62: Reported degree of compliance by topic area.....	62

Abbreviations

BGE	Bord Gáis Éireann
BNetzA	Bundesnetzagentur
BOG	Baumgarten Oberkappel GmbH
BOTAŞ	Boru Hatları ile Petrol Taşıma A.Ş.
CAM	Capacity Allocation Mechanisms
CEER	Council of European Energy Regulators
CERA	Cyprus Energy Regulatory Authority
CMP	Congestion Management Procedures
Dangas	Dangas GmbH Regiegesellschaft
DEN	Draft Explanatory Notes
DEP	Dong Energy Pipelines
DESFA	DESFA S.A.
DONG	DONG Energys
EC	European Commission
EGT	E.ON Gastransport AG & Co. KG
ENDK	Energinet.dk
EPDK	Elektrik Piyasası Düzenleme Kurumu (Turkish Energy Market Regulatory Authority)
Eni	Eni Gas & Power Deutschland s.p.A.
EREGE	European Regulators' Group for Electricity and Gas
ERSE	Entidade Reguladora dos Serviços Energéticos
EU	European Union
EVA	EON Avacon AG
EVG	Energieversorgungsgesellschaft Thüringen -Sachsen mbH
EWE	EWE Netz GmbH
ExxonMobil	Exxon Mobil Gastransport Deutschland GmbH
FN	Ferngas Nordbayern GmbH
Gas Union	Gas-Union Transport GmbH & CO KG
GdFDT	Gaz de France Deutschland Transport GmbH
Geoplin	Geoplin plinovodi d.o.o.
GFG	Gas Focus Group
GRTgaz	previously known as Gaz de France Réseau Transport
GS	Gaz-System S.A.
GRI	Gas Regional Initiative
GTS	Gas Transport Services B.V.

GWG	Gas Working Group
GVS	Gasversorgung Süddeutschland GmbH
Hydro	Hydro Energie Deutschland GmbH
Ofgem	Office of Gas and Electricity Markets
OGG	OMV Gas GmbH
Ontras	Ontras VNG Gastransport GmbH
MOL	MOL Földgázz szállító Zrt
Münster	Erdgas Münster Transport GmbH & Co KG
NGT	National Grid Transco
NRA	National Regulatory Authority
PNG	PNG Transmission
PTL	Premier Transmission Limited
RAE	Energy Regulator Authority
RWE-TGN	RWE Transgas Net
RWE	RWE Transportnetz Gas GmbH
SI	Sector Inquiry
SRG	SNAM Rete Gas s.p.A.
Statoil	Statoil Deutschland GmbH
TAG	Trans Austria Gasleitungs GmbH
TIGF	Total Infrastructures Gaz France
TPA	Third Party Access
TRA	Transparency
TSO	Transmission System Operator
Wingas	Wingas Transport GmbH & Co KG
WS	Work Stream

1. Preface

Transparency of information is crucial to the development of a competitive market. In order to avoid distortion in trade third party access (TPA) has to be provided on a non-discriminatory basis. The requirement of equal treatment requires a sufficient level of transparency. However, where such information is provided in a selective manner or inadequately, competitive disadvantages occur for competitors excluded from information. In addition, the lack of transparency favours the incumbent shipper.

The new Gas Regulation¹ which came into force on 1 July 2006 includes several requirements in relation to the publication and management of information by network operators. It is obvious that a single market requires necessary convergence of standards: it is crucial that the transparency requirements are adequately defined to ensure consistent implementation – the same information should be published in the same way by all Transmission System Operators (TSOs) across the European Union. The Gas Regulation therefore calls for harmonised determination of transparency requirements.²

In order to allow for efficient application of the relevant Articles of the Gas Regulation there is a clear need for consistent implementation of the requirements within the Gas Regulation across all Member States including for pipes that cross borders.

¹ Regulation (EC) No 1775/2005 of the European Parliament and of the Council of 28 September 2005 on conditions for access to the natural gas transmission networks, OJ L 289/1 (3.11.2005)

² Art 1 and recital 13 Regulation 1775/2005/EC.

2. Executive Summary

Transparency is crucial for the development of efficient and effective markets. Lack of transparency can create barriers to entry and impact on the development of competition and trade as well as the integration of markets. The foundation for the implementation of transparency requirements had been laid in Regulation 1775/2005/EC.

The ERGEG has carried out a monitoring exercise out to assess the current level of implementation of the relevant requirements in the Gas Regulation. This report is a systematic survey of monitoring the transparency requirements outlined in Regulation 1775/2005/EU using the 15 April 2007 as a cut-off date (where applicable) for 43 European TSOs.

The report is not an assessment of the level of transparency across the EU – and results presented should not be interpreted this way. ERGEG's view is that the existing requirements in the Gas Regulation in relation to transparency are not sufficient to facilitate the development of an efficient and effective market. ERGEG has submitted its advice to the European Commission on the changes that are needed in the legislative framework to allow for improvements in transparency. This advice was included in ERGEG's submission to the EC's "An Energy Policy for Europe".³

This calls for a number of things including:

- The removal of the less than 3 rule which is being used extensively to constrain transparency;
- The introduction of legally binding requirements for transparency in relation to other infrastructure (e.g. LNG, storage, and interconnectors); and
- Improvements in the frequency, scope and accessibility of information that should be published by TSOs.

Therefore this report should be seen as an assessment against a set of transparency requirements that are currently insufficient – and the lack of compliance observed highlights the need for significant improvements in transparency across the EU gas market. In particular, ERGEG's work on its Gas Regional Initiative has shown that in a number of countries the less than 3 rule is being used extensively to limit the publication of vital information, which whilst not in contradiction with the Gas Regulation, it does not represent "good practice" on transparency.

Key findings are as follows:

- Findings from the monitoring exercise carried out as part of this report show a heterogeneous and sometimes low degree of implementation of Regulation 1775/2005/EC. Implementation varies both in terms of the geographic implementation (by TSO and country) and by topic area. The overall compliance level is therefore unsatisfactory.

³ European Regulators' Group for Electricity and Gas (ERGEG) (2007): ERGEG's response to the European Commission's Communication "An Energy Policy for Europe", Ref. C06-BM-09-05, 6 February 2007.

http://www.ceer-eu.org/portal/page/portal/CEER_HOME/CEER_PUBLICATIONS/CEER_DOCUMENTS/2006

- The varying degree of implementation of transparency requirements indicates that a comprehensive and complete implementation of Regulation 1775/2005/EC needs to be ensured. The overall aim has to be a 100 per cent compliance in all those areas covered by the Regulation 1775/2005/EC. For new market entrants and for the promotion of competition, the most relevant information is the **contracted and available capacities** as well as the **historical flows**. This information has to be published at all relevant points (Annex 3.2 and 3.3 of the Regulation). In this area (question set 8 of the present monitoring), the compliance with the requirements of the Regulation is particularly unsatisfactory.
 - Concerning the publication of the historical flows, the compliance rate with the requirements of the annex 3.3 of the Regulation (publication of maximum and minimum utilisation rate) is very low, as shown in Figure 47.
 - Concerning the publication of the contracted and available capacities, the compliance appears to be higher than for the historical flows, *cf.* Figure 35 to 44. However this level is still unsatisfactory. Moreover, these results might be misleading and not significant, as in some EU Member States, the relevant points have not been defined or at least approved by the national regulatory authority (*cf.* below) and as some TSOs consider only very few points as relevant.
 - Last but not least, concerning the exemption of publication which can be granted by the NRAs (art. 6 para 5 of the Regulation and question set 9), the results of the monitoring shows that a high number of TSOs limit their publications without the authorisation of their NRAs, *cf.* Figure 52.
 - Where required, additional transparency requirements need to be defined and adopted to allow fair and non-discriminatory access to all types of natural gas infrastructure, not just transmission systems. This includes LNG facilities, storage facilities, and interconnectors.⁴
- There is also room for more transparency in adjacent areas. Future requirements for transparency could affect three areas, namely (i) proposed changes to annexed Guidelines to Regulation 1775/2005/EC, (ii) proposed changes to the Regulation 1775/2005/EC; and (iii) proposed changes beyond the current provisions of Regulation 1775/2005/EC. Monitoring such potential additional transparency requirements could furthermore also include those aspects that are not covered at present by the Regulation 1775/2005/EC, but included in the explanatory notes by the EC.
- The findings from this monitoring report raise the question as to whether national regulatory authorities have effective powers and enforcement mechanisms in place to ensure the compliance and implementation of all regulatory requirements, not just transparency requirements. ERGEG's response to the EC's "Energy Policy for Europe" identified the minimum powers that regulators need in order to undertake their tasks effectively.

⁴ See ERGEG's Recommendations for an amendment of the provisions made in Regulation 1775/2005/EC regarding transparency provisions (appendix 3 of paper 6 of the 3rd package: "Transparency requirement for electricity and gas - a coordinated approach, ref. C07-SER-13-06-6-PD, 5 June 2007). http://www.ergreg.org/portal/page/portal/ERGEG_HOME/ERGEG_DOCS/ERGEG_DOCUMENTS_NEW/Energy%20documents

ERGEG would also like to stress that in some cases, TSOs have reported the answers themselves. Although NRAs were asked to carefully check the responses, ERGEG cannot guarantee that this has always been the case, although maximum care has been taken to ensure this.

3. Introduction

3.1. Scope and Method

The scope of this report is to

- Assess the status quo of compliance with the transparency requirements of the Gas Regulation: the compliance assessment is based on the transparency requirements listed in Regulation 1775/2005/EC according to which TSOs are obliged to publish information on tariffs, third party access (TPA) services, principles of capacity allocation mechanisms (CAM) and congestion management procedures (CMP), technical aspects and capacities. The monitoring covers an analysis of the detailed transparency requirements listed in the annexed guidelines of the Gas Regulation;
- Identify the need for possibly more detailed transparency requirements and/or modification of existing provisions of the Gas Regulation.

Information on the compliance with the transparency requirements of the Gas Regulation has been collected via a questionnaire prepared by the ERGEG Gas Focus Group and completed by the national regulatory authorities. Results have been re-checked by the national regulators at the beginning of 2007 (January 2007) and April/May 2007.

Information on need for additional transparency requirements and/or modification of existing provisions of the Gas Regulation has been collected via two instruments:

- National regulators have been requested to identify possible need for improvement.
- Users' demand has been queried via the Gas Regional Initiative (GRI).

3.2. Countries and TSOs covered

The following countries and pipeline systems are covered by the current report:

Table 1: Countries and TSOs covered

Austria	TAG	Great Britain	NGT
Austria	OGG	Greece	DESFA S.A.
Austria	BOG	Hungary	MOL
Belgium	Fluxys	Italy	SRG
Czech Republic	RWE-TGN	Republic of Ireland	BGE (IRL)
Denmark	ENDK	Latvia	Latvijas Gaze
France	TIGF	Lithuania	Lietuvos Dujos AB
France	GRT Gaz	Netherlands	GTS
Germany	Bayernets	Northern Ireland	PTL
Germany	BEB	Northern Ireland	PNG
Germany	EVA	Northern Ireland	BGE (NIR)
Germany	EGT	Poland	GS
Germany	ENI	Slovakia	SPP
Germany	Erdgas Münster	Slovenia	Geoplin
Germany	EWE	Spain	Enagas
Germany	ExxonMobil	Sweden	Svenska Kraftnät
Germany	FN		(SO) Swedegas (TO)
Germany	Gas Union	Turkey	BOTAS
Germany	GVS		

Germany	GdFD	
Germany	Hydro	
Germany	Ontras	
Germany	RWE	
Germany	Saar Ferngas	
Germany	Statoil	
Germany	Wingas	
Germany	Dong Energy	
Pipelines		

Source: ERGEG Transparency Monitoring Survey 2007

In total, 43 European TSOs are covered in the analysis. To ensure that all names are displayed correctly in the graphs, the following names have been abbreviated:

- Erdgas Münster (Germany): EGM
- ExxonMobil (Germany): EXM
- Gas Union (Germany): GU
- Saar Ferngas (Germany): SFG
- Dong Energy Pipelines (Germany): DEP
- Latvijas Gaze (Latvia): LG
- Lietuvos Dujos AB (Lithuania): LD
- BGE (N IRL) (Northern Ireland): BGE (NIR)
- Svenska Kraftnät (SO) Swedegas (TO) (Sweden): SKSG⁵
- RWE Transgas Net (Czech Republic): RWE-TGN

3.3. Updating of information and actuality, including brief history of the report

Data for the transparency report were first collected in September 2006 when all NRAs were asked to submit the relevant information. Following an initial round of analysis, NRAs were given the opportunity to update their submissions - where necessary - in January 2007.

A final round of updating was carried out, following the 12th Madrid Forum and a request by the European Commission. Therefore, the information upon which this report is based is as up to date as possible. As a result, TSOs, via the NRAs, were given the opportunity to update their information using the 15 April 2007 as a clear cut off date. The aim of this procedure was twofold:

- Firstly, the aim was to ensure that all information related to a specific date. Any conclusions and recommendations based on the findings from the report should hence be robust and meaningful.

⁵ Svenska Kraftnät (SO) Nova Naturgas Swedegas (TO) has recently changed names. The data collected reflected initially the old name, however, the graphs have now been adjusted for this. The new name used in the following is Svenska Kraftnät (SO) Swedegas (TO).

- Secondly, greater TSOs involvement in the updating process was requested. Therefore, NRAs were asked to ensure that the responsibility of updating the information was with the TSOs, whilst NRAs' role was to ensure a brief check of the responses for correctness. This was done to ensure that especially in countries with a large number of TSOs, all the relevant information is being made available to the NRA and hence included where applicable.

In the past (versions 1 to 3 of the report), specific information had been received from the following countries (no update in version 4)

- *Cyprus*: There is no gas infrastructure in Cyprus at the moment.⁶
- *Finland*: According to the article 28 the Gas regulation 1775/2005/EC does not apply to Finnish transmission system, because Finland has been granted a derogation under Article 28 of Directive 2003/55/EC.⁷
- *Luxembourg*: According to Article 16 lit (a) Regulation 1775/2005 TSO benefits from derogation (Art 28.6 of Directive 2003/55) and obligations resulting from the regulation do not apply.⁸
- *Malta*: There is no gas (infrastructure) in Malta at the moment.
- *Portugal*: Portugal has a derogation of the Gas Directive according to Art 28.6 of Directive 2003/55).⁹

In finalising the transparency report, additional information has been received from the following NRAs/TSO systems/countries and has been included in the report:

- *Cyprus*: There is still no gas infrastructure in Cyprus at the moment (confirmed, see information provided above and corresponding footnote).
- *Slovakia*: Update of information for the Slovak TSO SPP.
- *Belgium*: Update of information for the Belgium TSO Fluxys.
- *Hungary*: Update of information for the Hungarian TSO MOL.
- *Czech Republic*: Update of information for the Czech TSO RWE Transgas.
- *Austria*: Update of information for the Austrian TSOs OGG, TAG and BOG.
- *Poland*: Update of information for the Polish TSO Gas System.
- *France*: Update of information for the French TSO, at the same time: Emphasis that the name of the biggest French TSO is GRTgaz.

6 However the Natural Gas Sector in Cyprus has been harmonized with the relevant European Directive 2003/55/EC in relation to the common rules for the internal market through the Law of 2004 on Regulating the Natural Gas Market L183 (I)/2004. Amendment to this Law was published on 21/07/06. Regulations issued by virtue of the Provisions of the Law of 2004 Regulating the Natural Gas Market regarding the issue of licences (Import, Storage, Transmission, Distribution and Supply), the licence Fees, and the Investigations Procedure which they were prepared by CERA, approved by Parliament and published on 21/07/06 [Cyprus national regulator, Cyprus Energy Regulatory Authority (CERA)].

7 Information provided by Finnish regulatory authority Energiamarkkinavirasto (EMV).

8 Information provided by national regulatory authority Institut Luxembourgeois de Régulation (ILR).

9 Nevertheless, the Portuguese government is anticipating the gas market opening, according with the following calendar: electricity producers in ordinary regime: 1st January 2007; consumers with consumption equal or higher than 1 million m³ (n) - 1st January 2008; consumers with consumption equal or higher than 10 000 m³ (n) - 1st January 2009; All consumers - 1st January 2010. [Portuguese National Authority Entidade Reguladora dos Serviços Energéticos (ERSE)].

- *Germany*: Update of information for the German TSOs. BNetzA would like to emphasise that
 - Most information provided in the corresponding spread sheet used for the report are based on information provided by the TSOs and has been briefly checked for plausibility by the BNetzA. The remaining data is based on analysis carried out by BNetzA.
 - In general information now relates to 15 April 2007. This is due to the fact that the validation of the information requested on this occasion has been collected by BNetzA independently of this report and separately based on/due to European and other national requirements.
 - Information for Dong Energy Pipelines has now been included. These data relate to 28 February 2007.
 - No information is provided for EVG (Erdgasversorgung Thüringen-Sachsen), since EVG argues not to be a TSO in the sense of Regulation 1775/2005. As a result, following a suggestion from BNetzA, EVG has been eliminated from the analysis. This has led to the number of German TSOs to be reduced from 20 (versions 1 to 3 of the report) to 19 (version 4 of the report).
 - Some information requirements included in the spread sheet are no direct requirements following on from Regulation 1775/2005. As a result, BNetzA has not asked the TSOs to provide information at this point. This is of relevance to question 8.10.
 - **ERREG acknowledges the latter issue and suggests to include the evaluation of question 8.10 in this report, but not to use it for the compilation of the overall results.**
 - BNetzA suggested that those information requirements beyond the scope of Regulation 1775/2005 should not be included in the monitoring report.
- *Denmark*: Update of information for Energinet.dk (ENDK), the Danish TSO.
- *Latvia*: Update of information for the Latvian TSO Latvijas Gaze.
- *Greece*: Provision of additional and clarifying information regarding the following issues:
 - Under the provisions of national Gas Law 3428/2005, the Greek TSO was established in February 2007 under the name of “DESFA S.A.”.
 - As a newly formed entity, DESFA has not published yet any of the information envisaged in Regulation 1775/2005. Currently DESFA is in the process of developing its website. Additionally, it is worth noting that the Gas Law provides for the implementation by DESFA of an Electronic Information Board which will provide all relevant information and facilitate capacity booking and secondary capacity trading.
 - Regarding availability of necessary data for access to the Greek National Gas System RAE would like to stress the following:
 - The Standard Transmission Contract (Ministerial Decision) which lays out the terms and conditions for access to the transmission system is published in the Official Government Gazette and is available on the Ministry of Development website in Greek.
 - Tariffs for TPA to the transmission system and the LNG facility were determined by a Ministerial Decision and are published in the Official Government Gazette and Ministry of Development websites in Greek. The underlying cost principles and the tariff methodology are thoroughly explained in the Ministerial Decision.

- RAE also stressed that both Ministerial Decisions (TPA Tariffs and STA) will be in RAE's website in both English and Greek shortly (ie June 2007).
- *Great Britain*: Update of information and provision of supplementary information: Ofgem would like to stress that:
 - By 1 April 2007, NGT should have been compliant regarding question 8.3 of the questionnaire. This is however, not the case. Ofgem has therefore amended question 8.3 to reflect this. It is unlikely that NGT will be compliant with this until 2008 due to 'exit reforms that have been delayed'.
- *Slovenia*: Update of information for the Slovene TSO Geoplin.
- *Poland*: Provision of up-date information about fulfilment of requirements Regulation 1775/2005 by the OGP Gaz-System SA.
- *Turkey*: Inclusion of information for the Turkish TSO BOTAŞ for the first time. This information has been included into the analysis of the results, given the Turkey is an ERGEG observer.

Apart from the information provided above and in the spread sheet,

- the following ERGEG **members** did not submit any information:
 - Bulgaria;
 - Estonia; and
 - Romania.
- the following ERGEG observers did not submit any information:
 - Iceland;
 - Croatia; and
 - Norway.

4. Market Assessment

4.1. Energy Sector Inquiry – Key Findings on Transparency

The European Commission (EC) has recently published its views of what future requirements for transparency are. This has especially been the case in the context of the recent Sector Inquiry (SI).

In its Sector Inquiry, the EC stated with regard to transparency that

- Lack of transparency prevents new entry;
- However, transparency could facilitate collusion between the major markets players;
- As far as access to transit pipelines is concerned, transparency should be improved;
- Regarding secondary trading and unused capacity, the EC found that networks users shall also be entitled to put contracted capacity that they do not wish to use (or are unable to use) on the secondary market;
- As far as storage is concerned, the EC stated that storage users would like to receive detailed information, which in turn has an impact on transparency in this area;
- Price formation is another issue that was examined by the EC, in particular relating to price indexation and price formation at hubs. Whilst the EC describes price formation mechanisms in detail, it is unclear whether it would want more information to be published at this point or not and if so, which data items in particular.
- In conclusion, the EC finds that
 - “Network users request more transparency on access to networks and transit capacity, and storage.”
 - “Users would like to see more detailed information than is currently provided for by the minimum requirements set by the Gas Directive and the Guidelines annexed to it.”
 - “Notably, network users question the “three or more” rule and favour the enhancement of secondary trading by the publication of unused capacity. A number of new entrants would welcome the creation of a single transparent and integrated web platform providing information on available capacity for all transit pipelines.”

4.2. ERGEG Assessment of the Energy Markets 2006 – Key Findings on Transparency

In its response to the European Commission’s Communication “An Energy Policy for Europe¹⁰”, ERGEG has clearly stated that

“[Transparency] is of central importance that the information necessary for the efficient operation of the market is made available promptly and without

¹⁰ European Regulators’ Group for Electricity and Gas (ERGEG) (2007): ERGEG’s response to the European Commission’s Communication “An Energy Policy for Europe”, Ref. C06-BM-09-05, 6 February 2007.
http://www.ceer-eu.org/portal/page/portal/CEER_HOME/CEER_PUBLICATIONS/CEER_DOCUMENTS/2006

discrimination to market participants. The availability of network capacity in the short and medium term has an important effect on the market as it can fundamentally affect the balance between supply and demand in particular regions, and thus electricity and gas prices. Transparency is also central to the ability to manage short term supply shortages, as well as providing the signals and confidence required to identify and deliver new investment to meet longer term demand.

TSOs have much (but not all) of this information and must therefore have a responsibility to make it available in a timely way. As market circumstances change over time (note the recent development of LNG and renewable generation) it is important that the detailed requirements on transparency can be changed and improved in response to changing needs.”

Based on this assessment, the report draws on both findings from the survey and examines the wider context for additional transparency requirements (c.f. next section).

4.3. Other Input

The European Commission has recently underlined the increasing importance of transparency as a policy issue. In particular, the European Commission has asked ERGEG to be in a position to provide input to the Commission’s work for a legislative proposal as early as mid-April 2007.

ERGEG’s advice should therefore cover the approach for implementing these requirements, ie whether it would be preferable to include these requirements in a directive/regulation which would be adopted following the co-decision procedure or to follow the comitology route provided for by existing regulation.

ERGEG has now taken over this work. Work is therefore currently under way that looks into the drafting of recommendations in the area of transparency that can be implemented either via an amendment of existing legislation or via the comitology route. It is envisaged to use the findings from this report as input into the drafting of the recommendations where possible to back the suggestions for increased transparency requirements up with empirical evidence where possible.

4.4. Re-iterating the role of transparency: The XIIth Madrid Forum

At the XIIth Madrid Forum which took place from 20th to 21st February 2007, the European Commission re-iterated the role of transparency, in particular in its Draft Explanatory Notes (DEN):

“Transparency is essential for a well-functioning market. Access to information on capacity is necessary for access to markets, decision-making on supply and trading possibilities and risk management.”¹¹

¹¹ European Commission (2007): Draft Explanatory Note of DG Energy & Transport on Article 6 and Annex 3 of Regulation (EC) No 1775/2005 of the European Parliament and the Council of 28 September 2005 on conditions for access to the natural gas transmission networks, Paragraph 3.

Stressing the role of information in this, the European Commission found that:

“Information is a key factor in the development of a free market, not only for companies to know and react to market developments, but also to create confidence in the market. Confidence in the market will facilitate the competitive part of the sector by providing reliable information for market assessment and risk management, and thereby stimulate competition and liquidity.”¹²

Bearing in mind all of the above, the next section includes the findings in graphical/diagrammatical format of the 2007 transparency monitoring survey, carried out by ERGEG.

All findings are commented in section 6, when conclusions are drawn from the findings and recommendations for next steps and further monitoring work are presented.

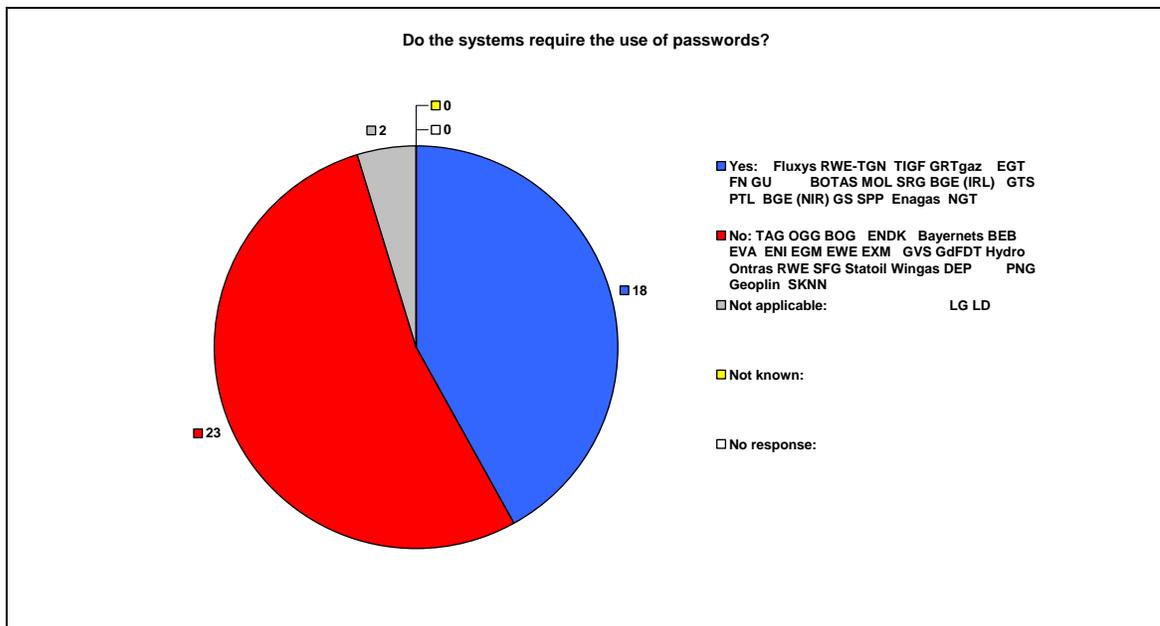
¹² European Commission (2007): Draft Explanatory Note of DG Energy & Transport on Article 6 and Annex 3 of Regulation (EC) No 1775/2005 of the European Parliament and the Council of 28 September 2005 on conditions for access to the natural gas transmission networks, Paragraph 4.

5. ERGEG Monitoring Results

5.1. Access to systems (Question set 1)

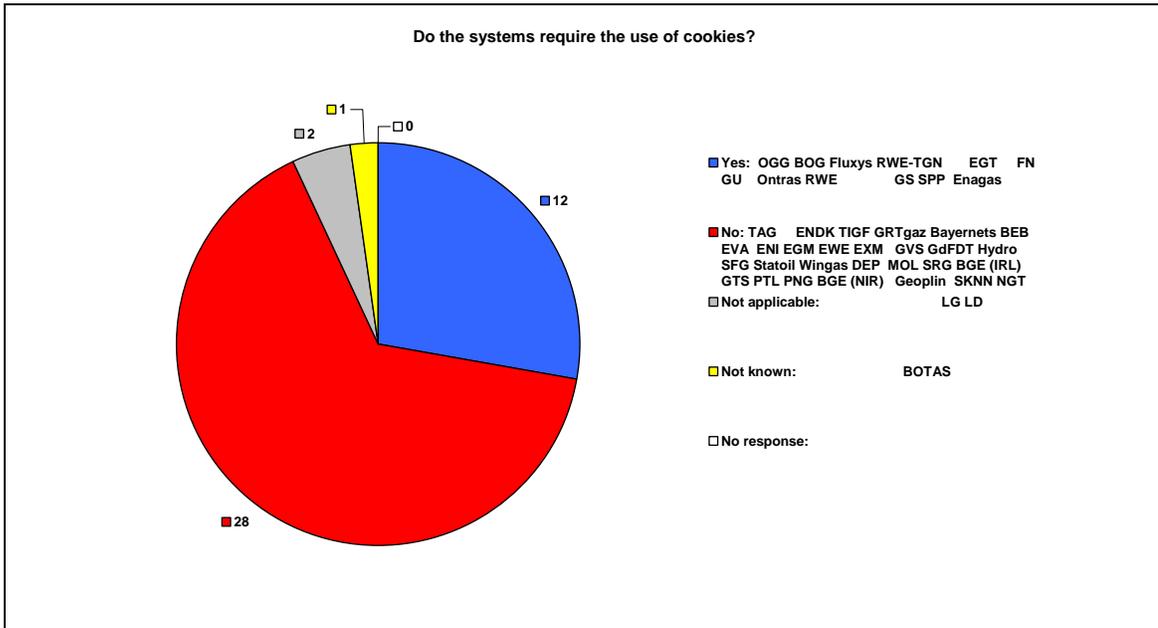
- Question: What is your assessment of the information systems and electronic communication means to provide adequate data to network users?
- Detailed questions:
 1. Do the systems require the use of passwords?
 2. Do the systems require the use of cookies?
 3. Is information easy to find using these systems?
 4. Is service frequently interrupted?
 5. Is information available in English?
 6. Do any other factors negatively impact the systems' user-friendliness?
- Analysis of responses

Figure 1: Do the systems require the use of passwords?



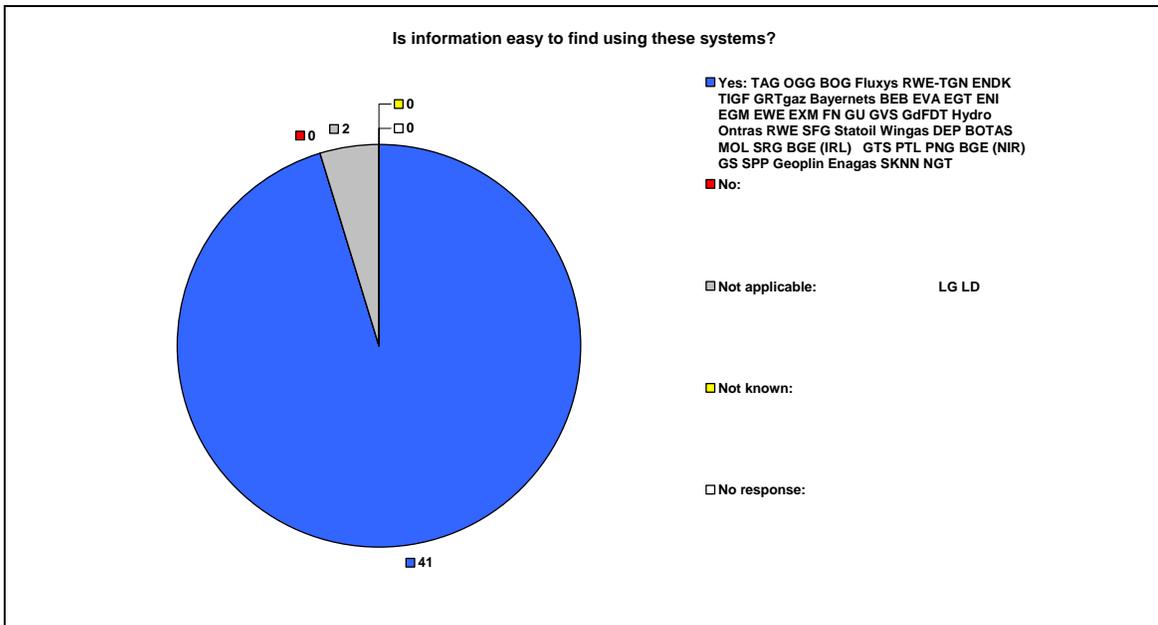
Source: ERGEG Transparency Monitoring Survey 2007

Figure 2: Do the systems require the use of cookies?



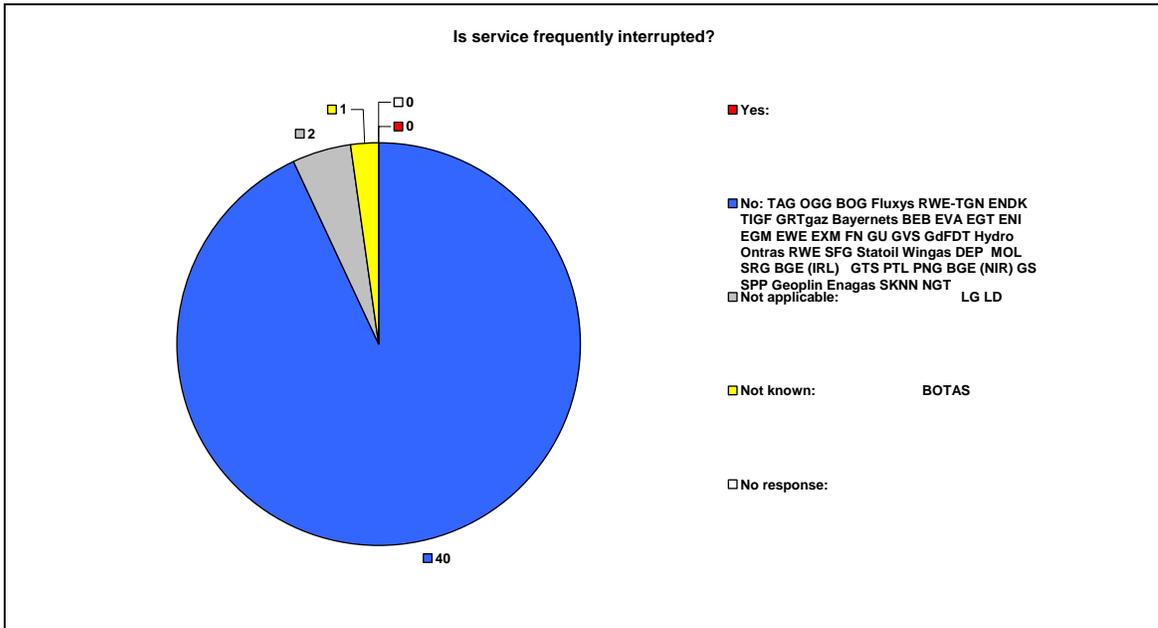
Source: ERGEG Transparency Monitoring Survey 2007

Figure 3: Is information easy to find using these systems?



Source: ERGEG Transparency Monitoring Survey 2007

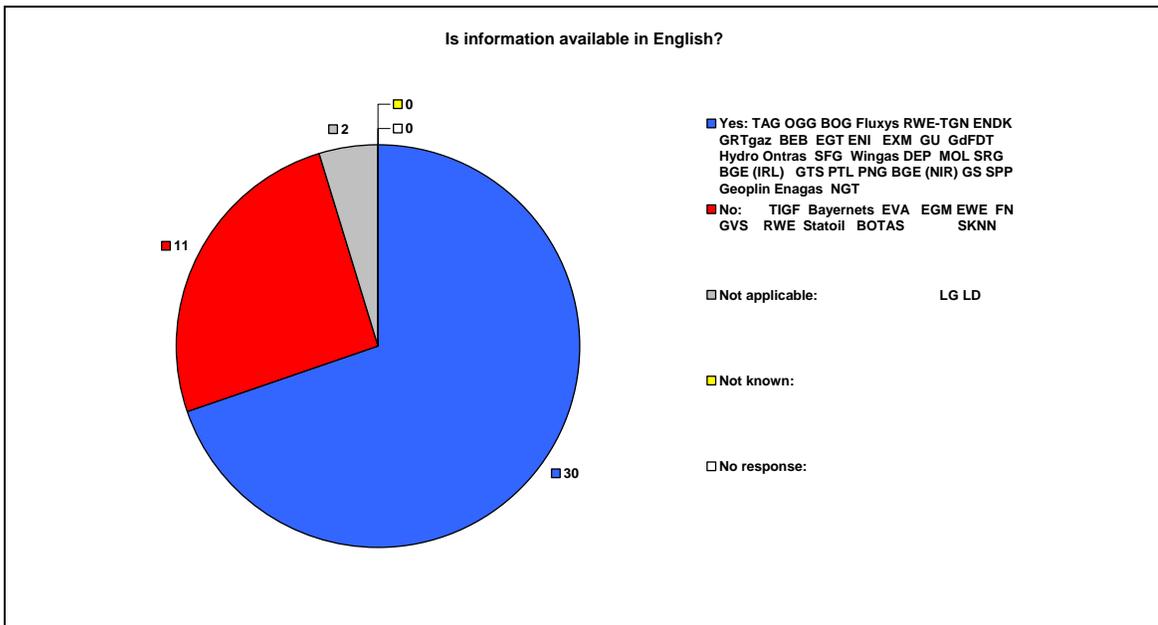
Figure 4: Is service frequently interrupted?



Source: ERGEG Transparency Monitoring Survey 2007

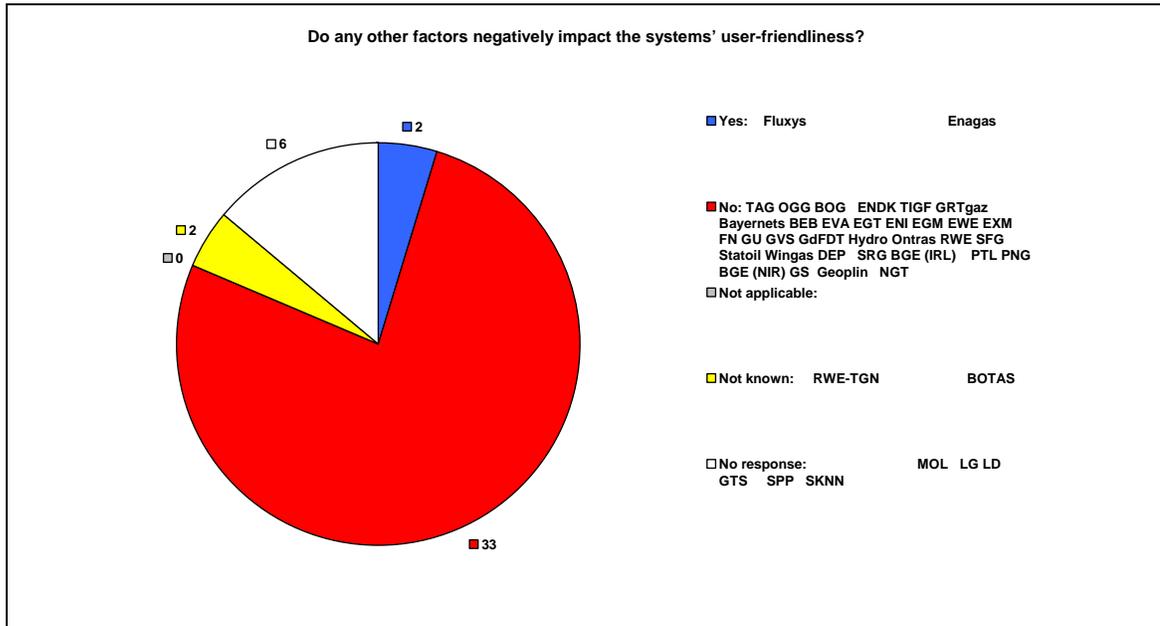
- Comment: Given the way this question had been phrased, the colours have been inverted in the figure above (red=Yes, blue=no).

Figure 5: Is information available in English?



Source: ERGEG Transparency Monitoring Survey 2007

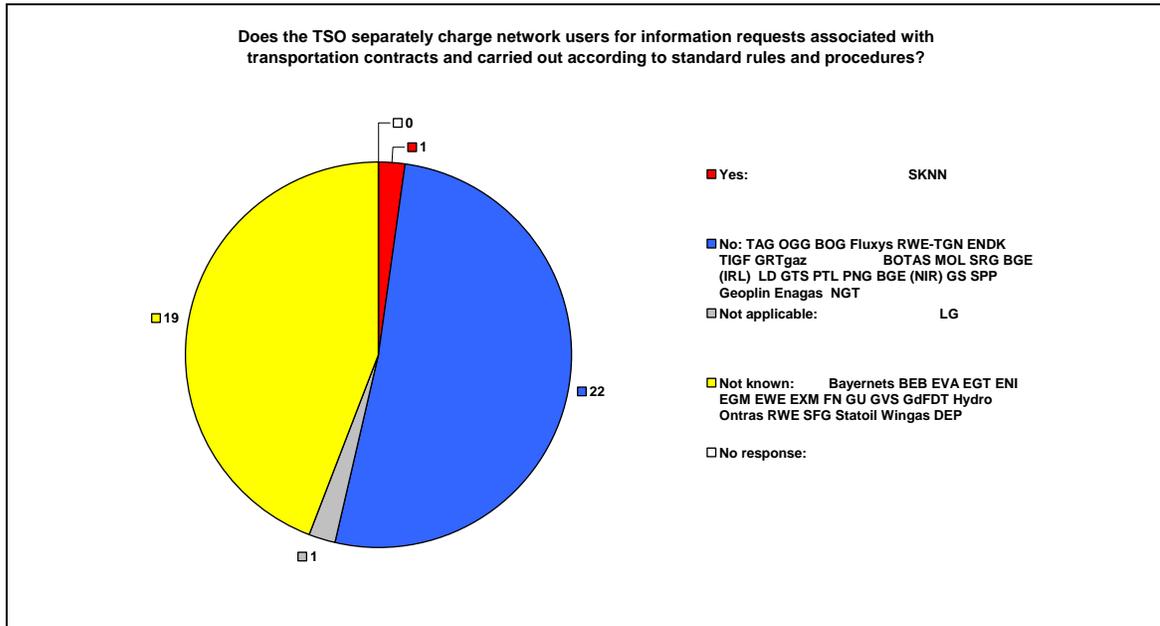
Figure 6: Do any other factors negatively impact the systems' user-friendliness?



Source: ERGEG Transparency Monitoring Survey 2007

- With regard to the figure above (question: “Do any other factors negatively impact the systems' user-friendliness?”), it needs to be emphasised that only few respondents answered this questions. Amongst the comments received were the following answers:
 - *“Data only available in *.pdf - format [and hence] not suitable for data handling.”*
 - *“Rigid. Expensive to adjust the system to the changing rules. Not possible to book capacities. Procedure of nomination is very time consuming and inconvenient.”*
 - *“The amount of information has a negative impact on user-friendliness. More graphics could improve user-friendliness.”*
- Question: Does the TSO separately charge network users for information requests associated with transportation contracts and carried out according to standard rules and procedures?
- Analysis of responses

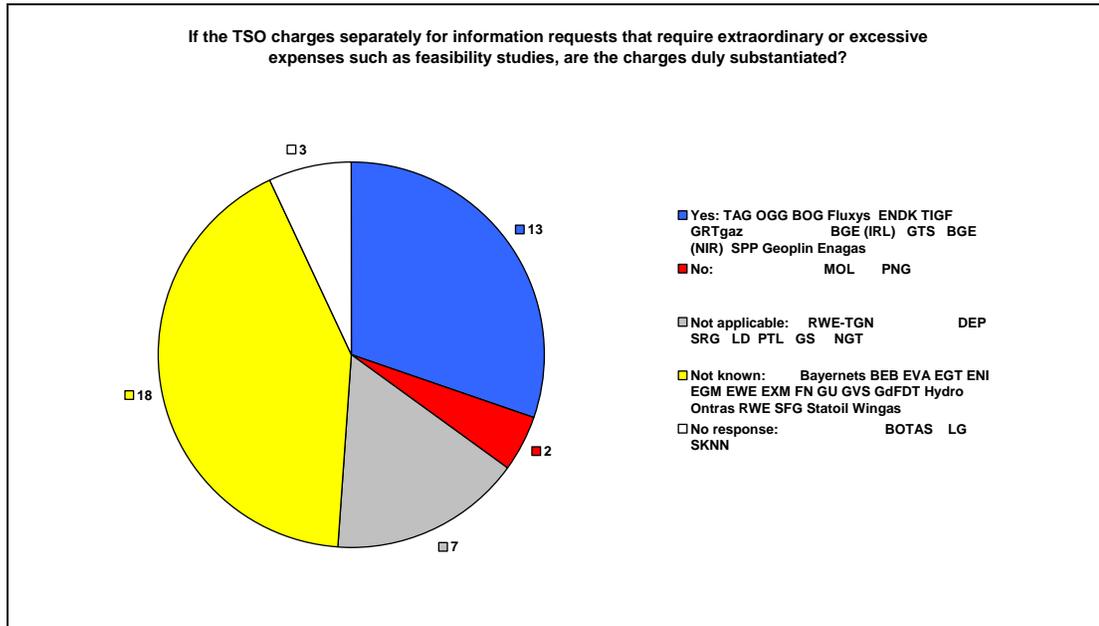
Figure 7: Does the TSO separately charge network users for information requests?



Source: ERGEG Transparency Monitoring Survey 2007

- Comment: Given the way this question had been phrased, the colours have been inverted in the figure above (red=Yes, blue=no).
- Question: If the TSO charges separately for information requests that require extraordinary or excessive expenses such as feasibility studies, are the charges duly substantiated?
- Analysis of responses

Figure 8: If so, are the charges duly substantiated?

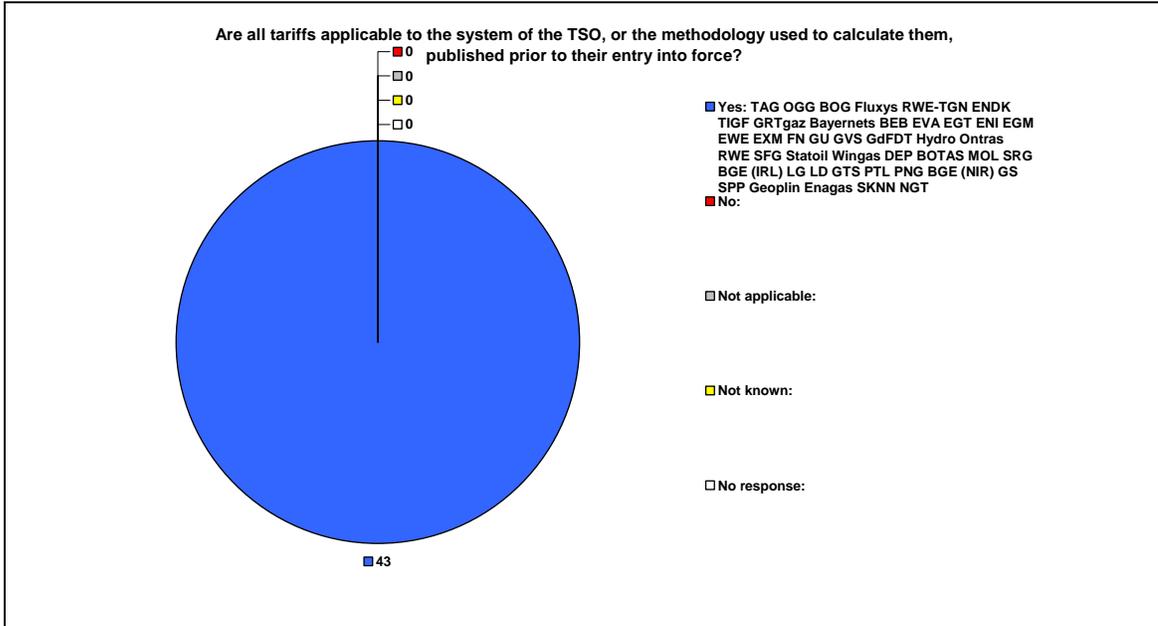


Source: ERGEG Transparency Monitoring Survey 2007

5.2. Tariffs (Question set 2)

- Question: Are all tariffs applicable to the system of the TSO, or the methodology used to calculate them, published prior to their entry into force?
- Detailed question: Only tariff for transit services is missing.
- Analysis of responses

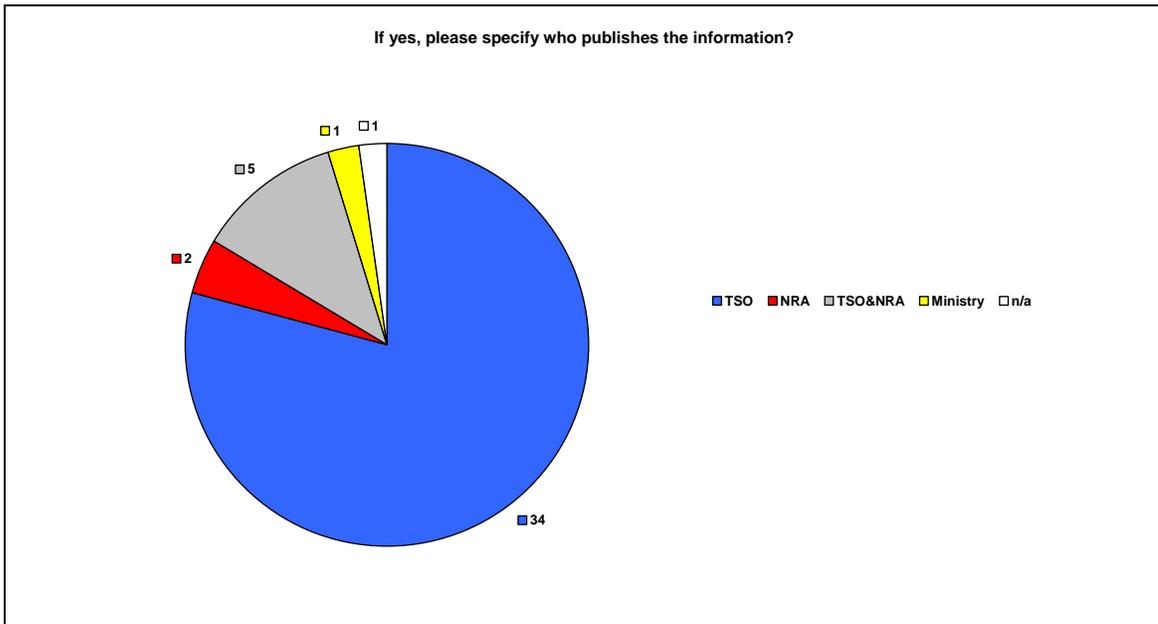
Figure 9: Are all tariffs applicable to the system of the TSO published?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If yes, please specify who publishes the information?
- Analysis of responses

Figure 10: If yes, please specify who publishes the information?

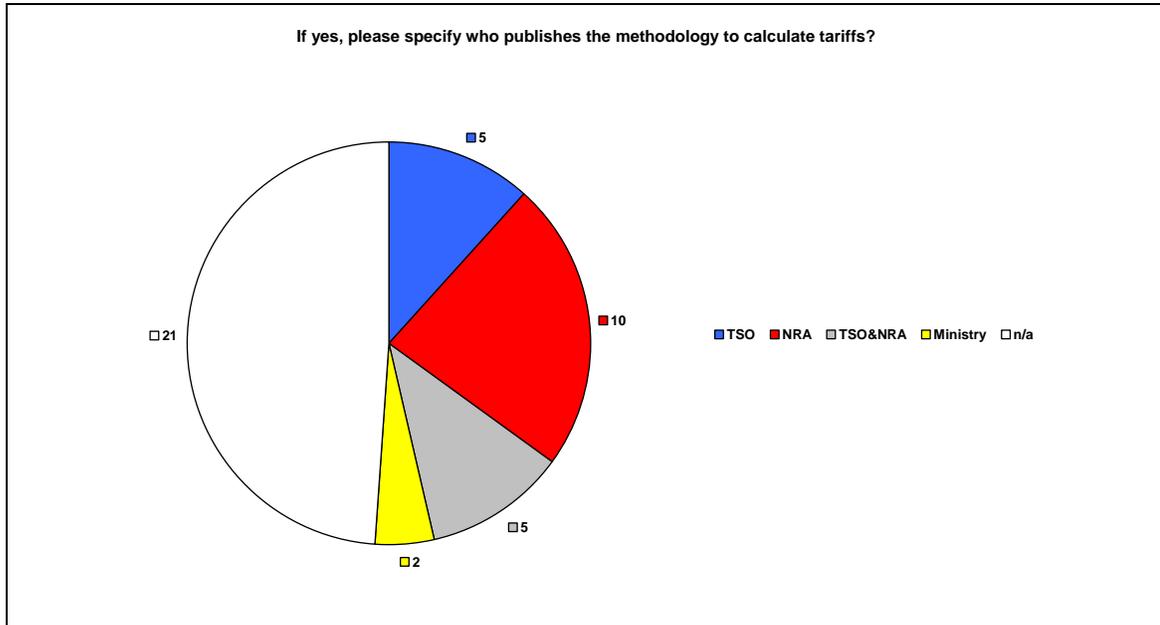


Source: ERGEG Transparency Monitoring Survey 2007

- Question: If yes, please specify who publishes the methodology to calculate tariffs?

- Analysis of responses

Figure 11: If yes, please specify who publishes the methodology to calculate tariffs?

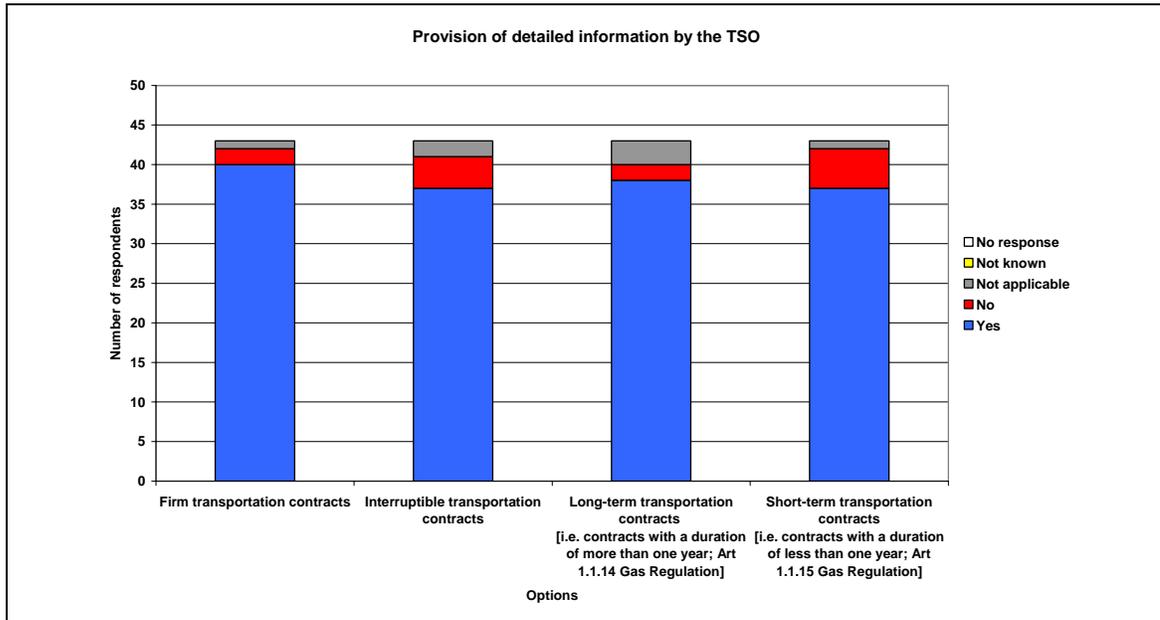


Source: ERGEG Transparency Monitoring Survey 2007

5.3. TPA Services (Question set 3)

- Question: TSOs have to publish detailed and comprehensive information regarding the services they offer. Art 4 in combination with Annex 1 of the Regulation lists the minimum services which have to be offered by TSOs. Please specify for which of these services detailed information including a description of the service, of associated charges and service conditions is published
- Detailed question:
 1. Firm transportation contracts
 2. Interruptible transportation contracts
 3. "Long-term transportation contracts [i.e. contracts with a duration of more than one year; Art 1.1.14 Gas Regulation]"
 4. "Short-term transportation contracts [i.e. contracts with a duration of less than one year; Art 1.1.15 Gas Regulation]"
- Analysis of responses

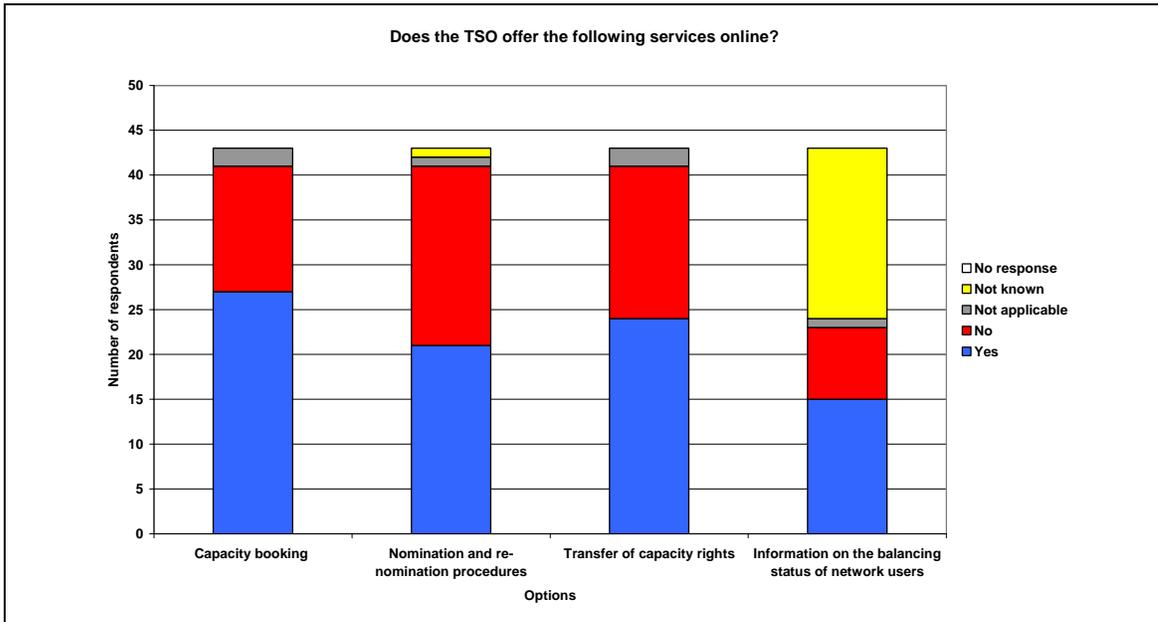
Figure 12: Provision of detailed information by the TSO



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO offer the following services online [online publication should be effected on the website of the TSO]
- Detailed questions:
 1. Capacity booking
 2. Nomination and re-nomination procedures
 3. Transfer of capacity rights
 4. Information on the balancing status of network users
- Analysis of responses

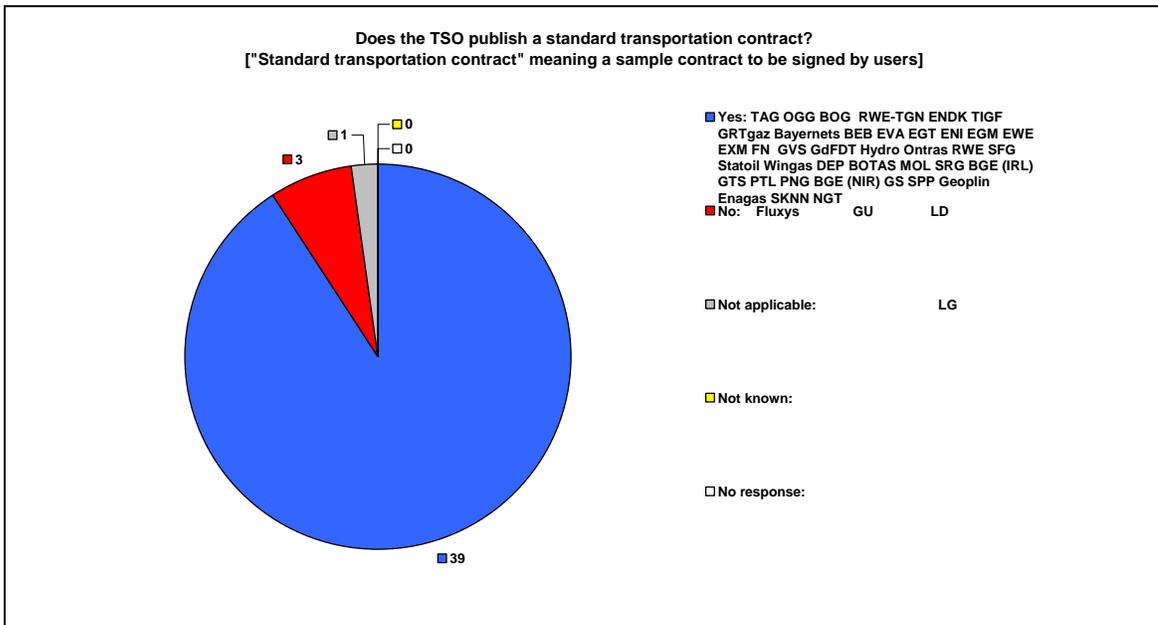
Figure 13: Does the TSO offer the following services online?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish a standard transportation contract ["Standard transportation contract" meaning a sample contract to be signed by users]?
- Analysis of responses

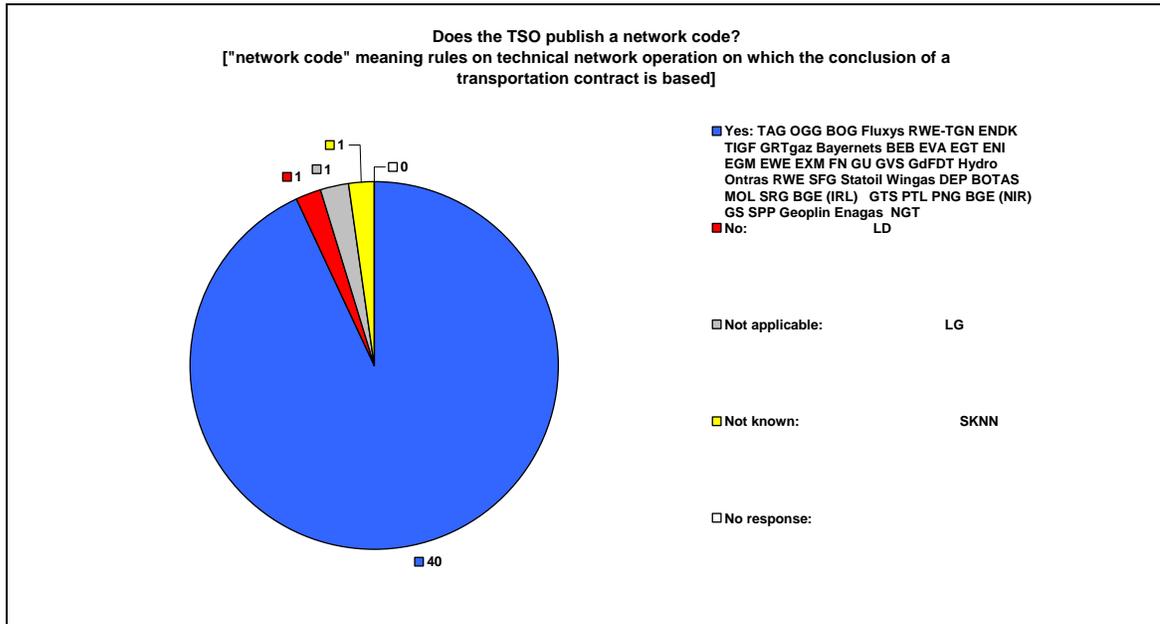
Figure 14: Does the TSO publish a standard transportation contract?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish a network code ["network code" meaning rules on technical network operation on which the conclusion of a transportation contract is based]
- Analysis of responses

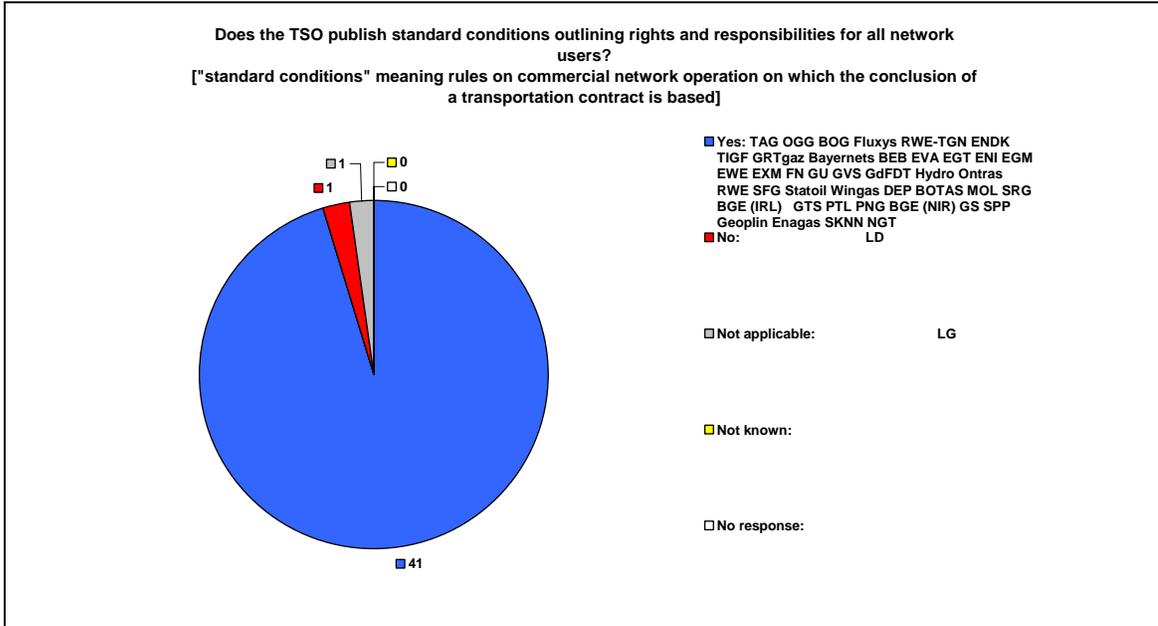
Figure 15: Does the TSO publish a network code?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish standard conditions outlining rights and responsibilities for all network users ["standard conditions" meaning rules on commercial network operation on which the conclusion of a transportation contract is based]
- Analysis of responses

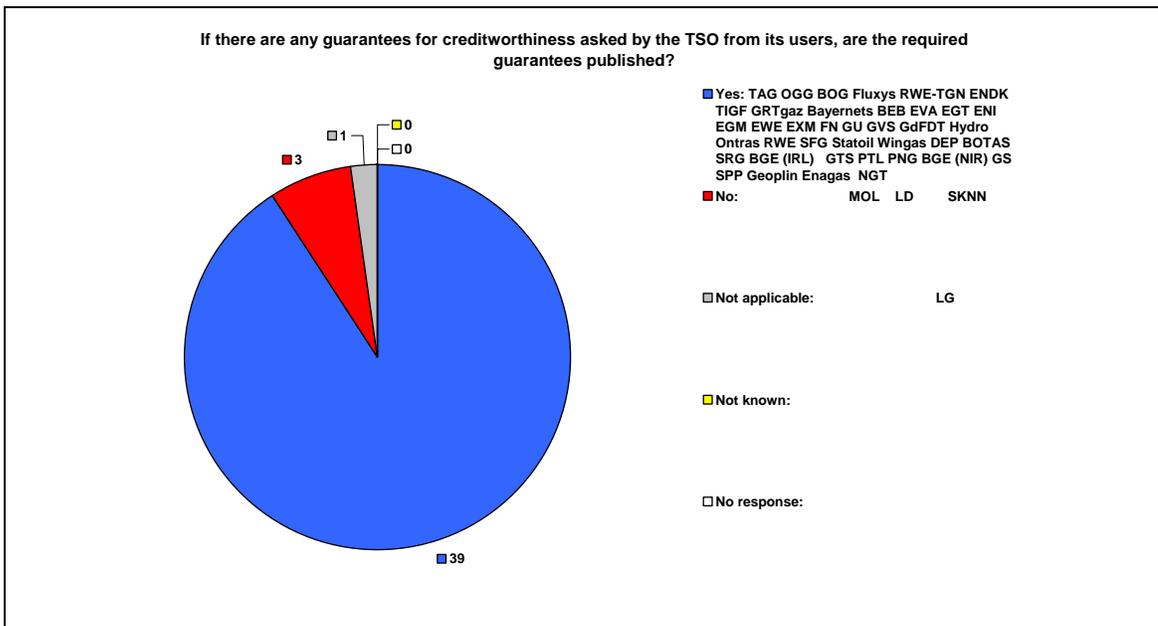
Figure 16: Does the TSO publish standard conditions?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If there are any guarantees for creditworthiness asked by the TSO from its users, are the required guarantees published?
- Analysis of responses

Figure 17: Are the required guarantees published?

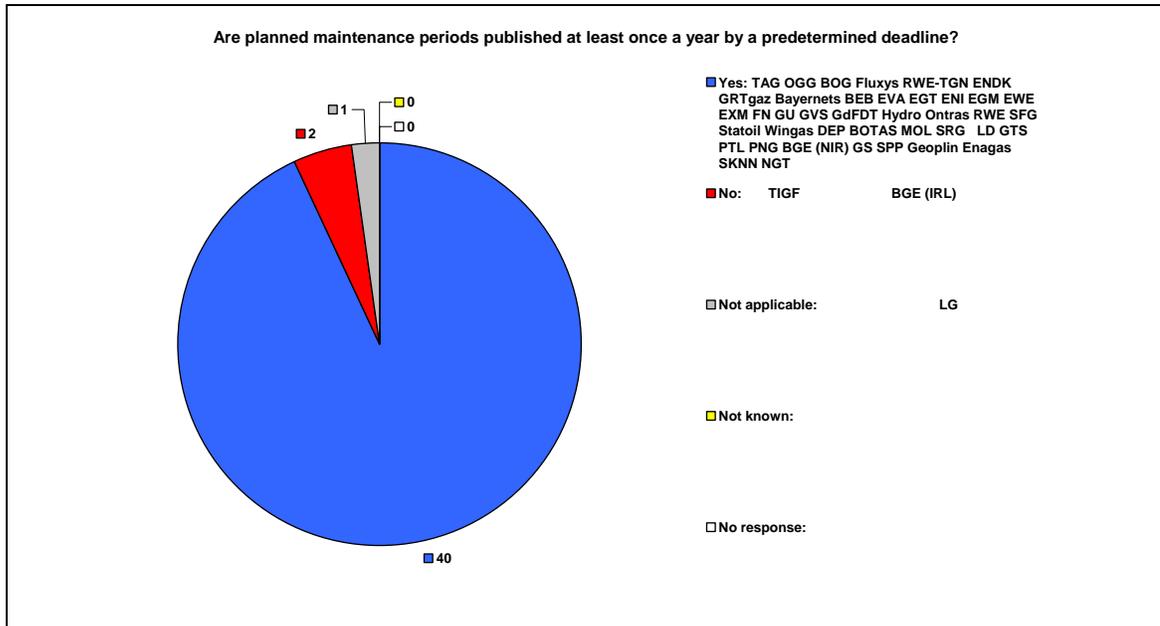


Source: ERGEG Transparency Monitoring Survey 2007

5.4. Modification of Conditions – Consideration of Market Demand (Question set 4)

- Question: Are planned maintenance periods published at least once a year by a predetermined deadline?
- Analysis of responses

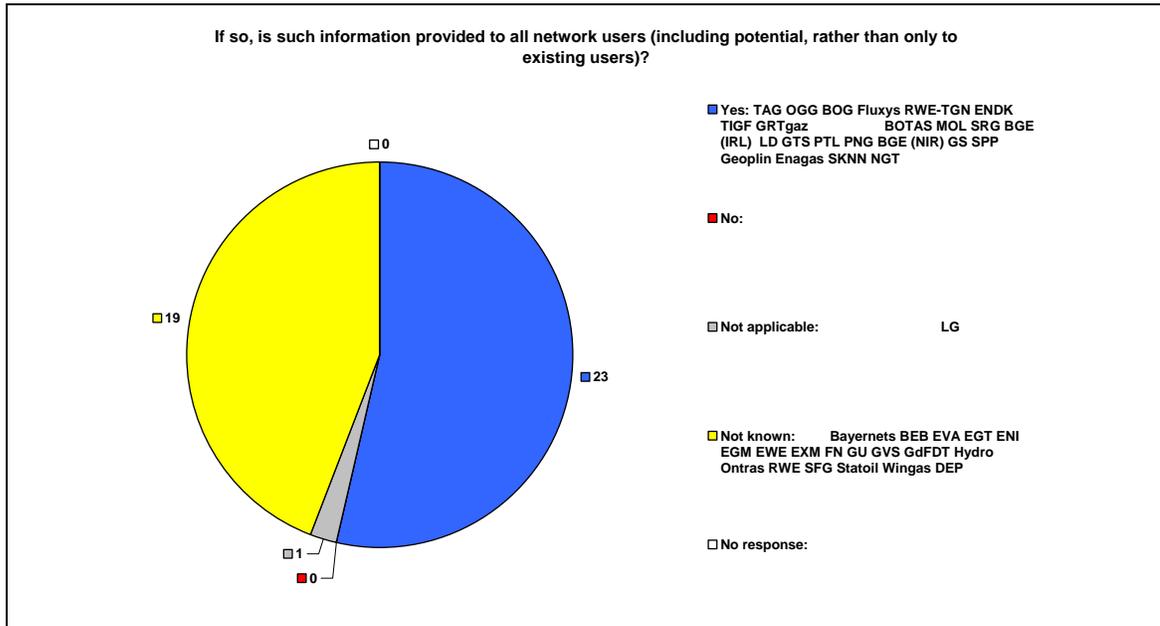
Figure 18: Are planned maintenance periods published?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If so, is such information provided to all network users (including potential, rather than only to existing users)?
- Analysis of responses

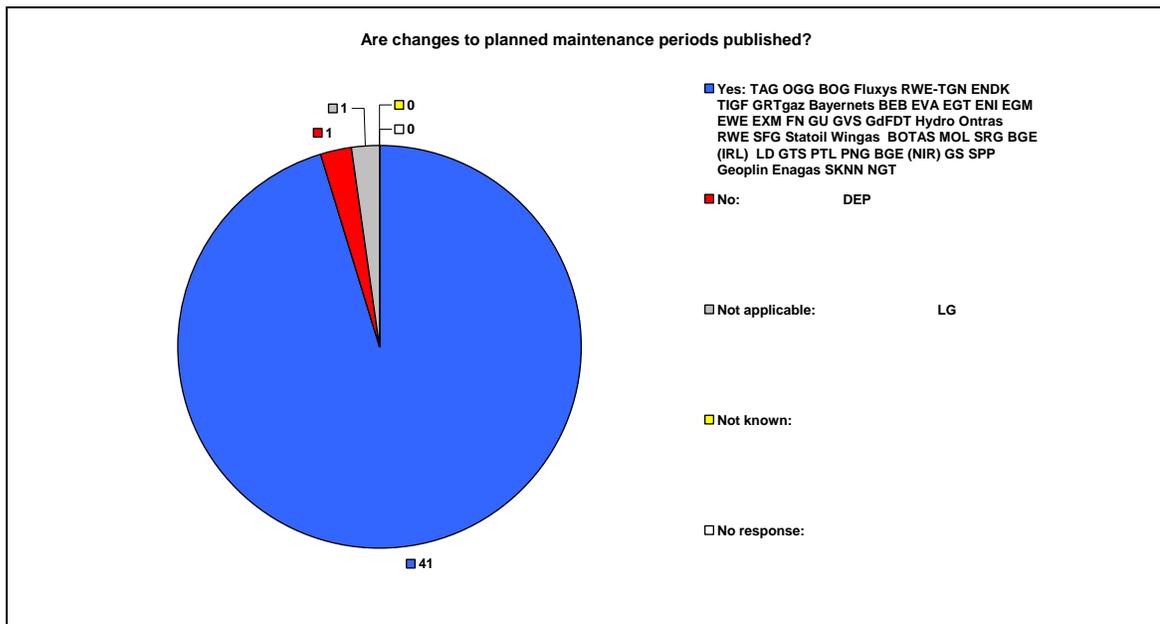
Figure 19: If so, is such information provided to all network users?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Are changes to planned maintenance periods published?
- Analysis of responses

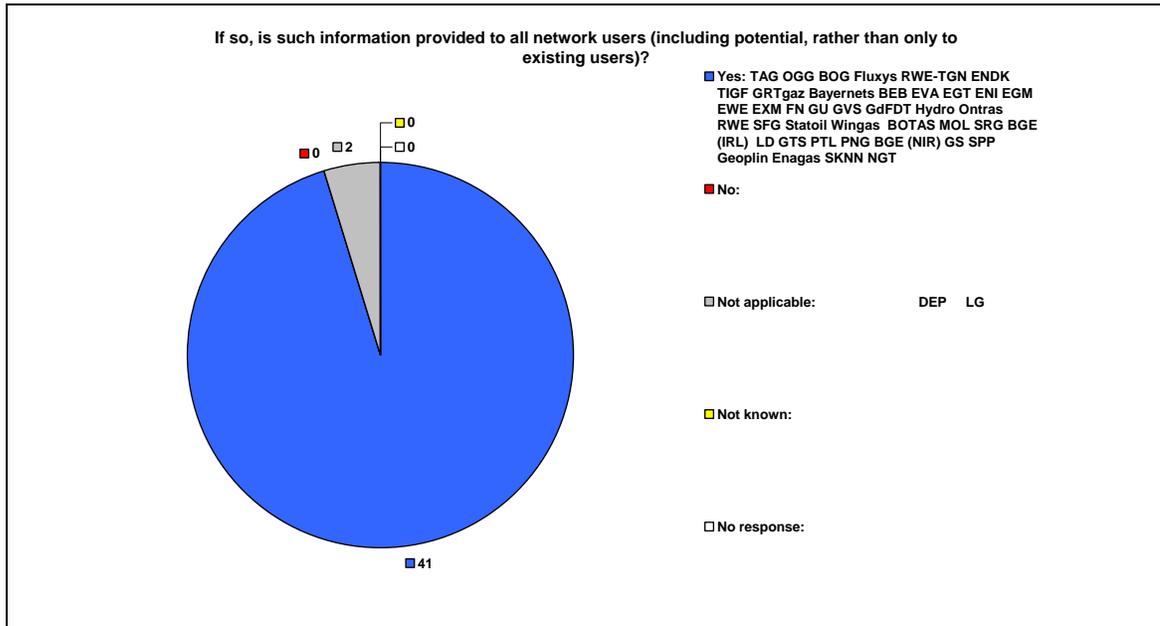
Figure 20: Are changes to planned maintenance periods published?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If so, is such information provided to all network users (including potential, rather than only to existing users)?
- Analysis of responses

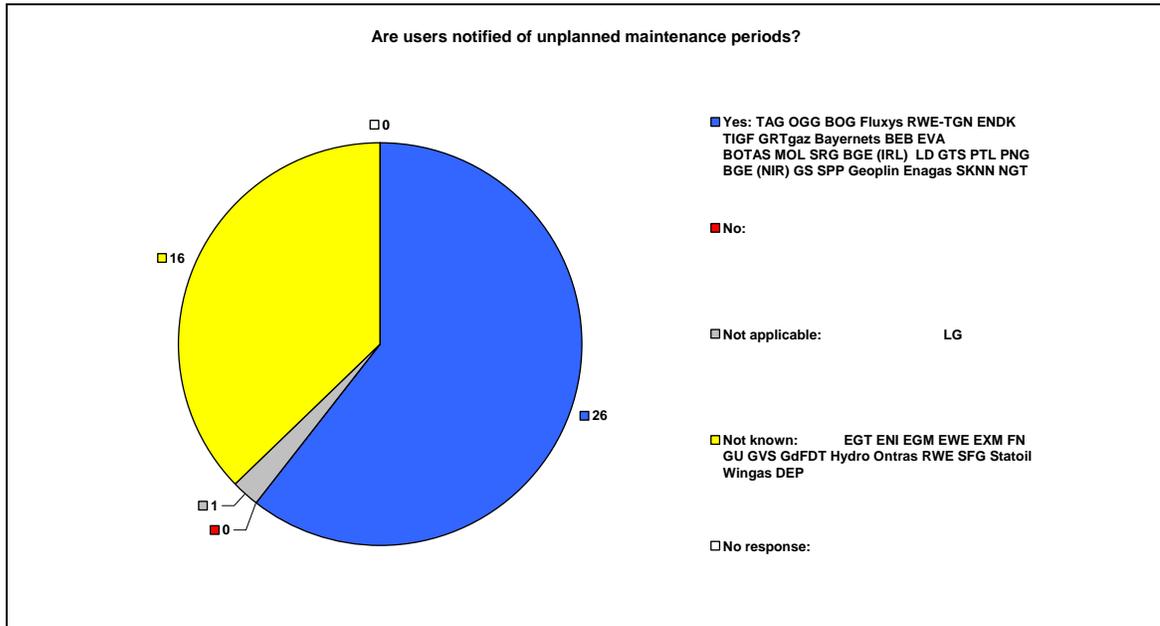
Figure 21: If so, is such information provided to all network users?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Are users notified of unplanned maintenance periods?
- Analysis of responses

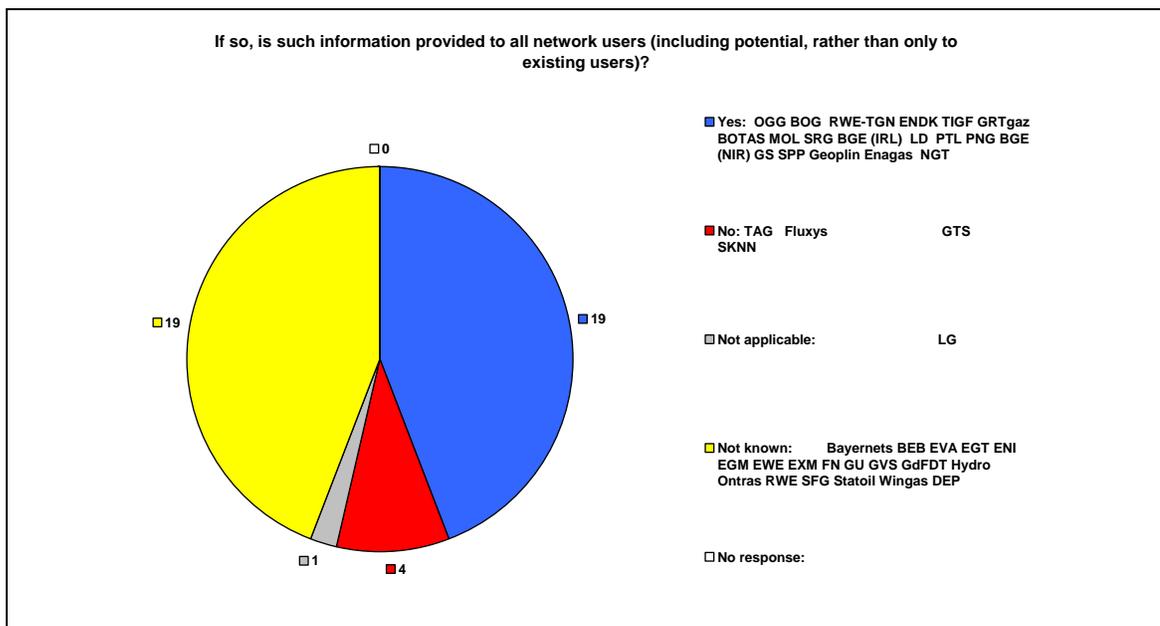
Figure 22: Are users notified of unplanned maintenance periods?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If so, is such information provided to all network users (including potential, rather than only to existing users)?
- Analysis of responses

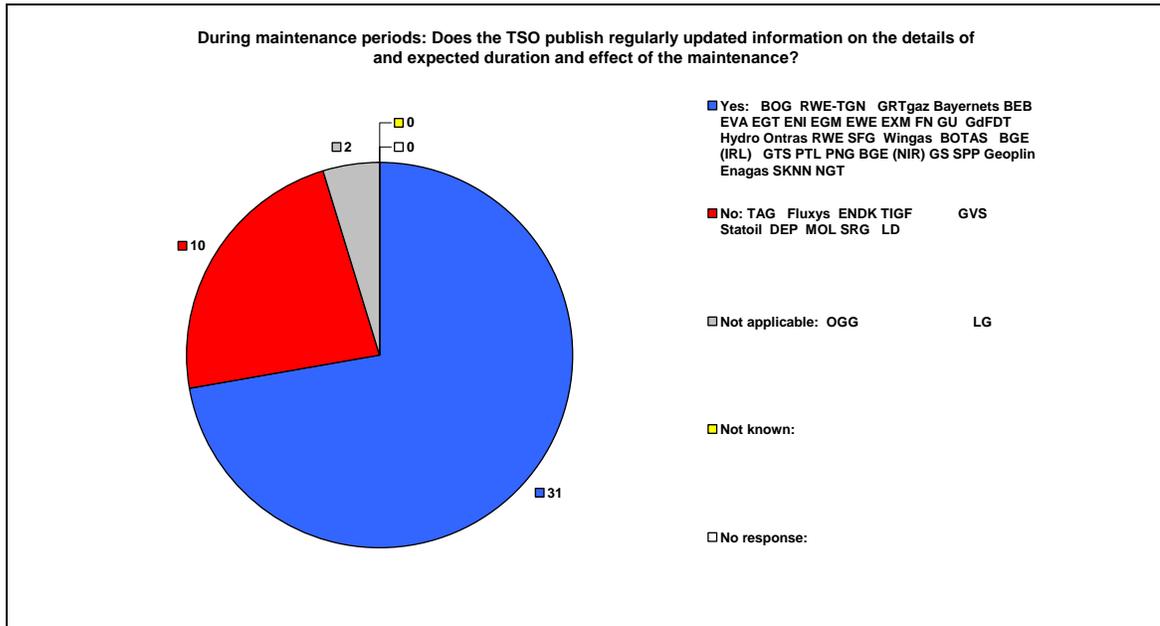
Figure 23: If so, is such information provided to all network users?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: During maintenance periods: does the TSO publish regularly updated information on the details of and expected duration and effect of the maintenance?
- Analysis of responses

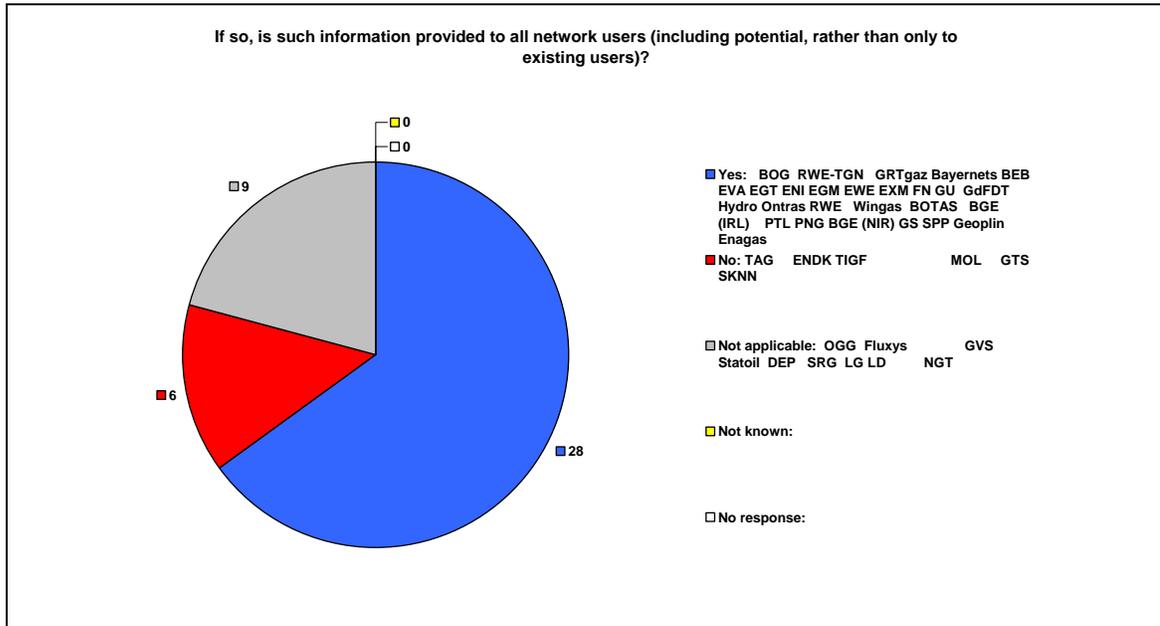
Figure 24: Does the TSO publish regularly updated information?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If so, is such information provided to all network users (including potential, rather than only to existing users)?
- Analysis of responses

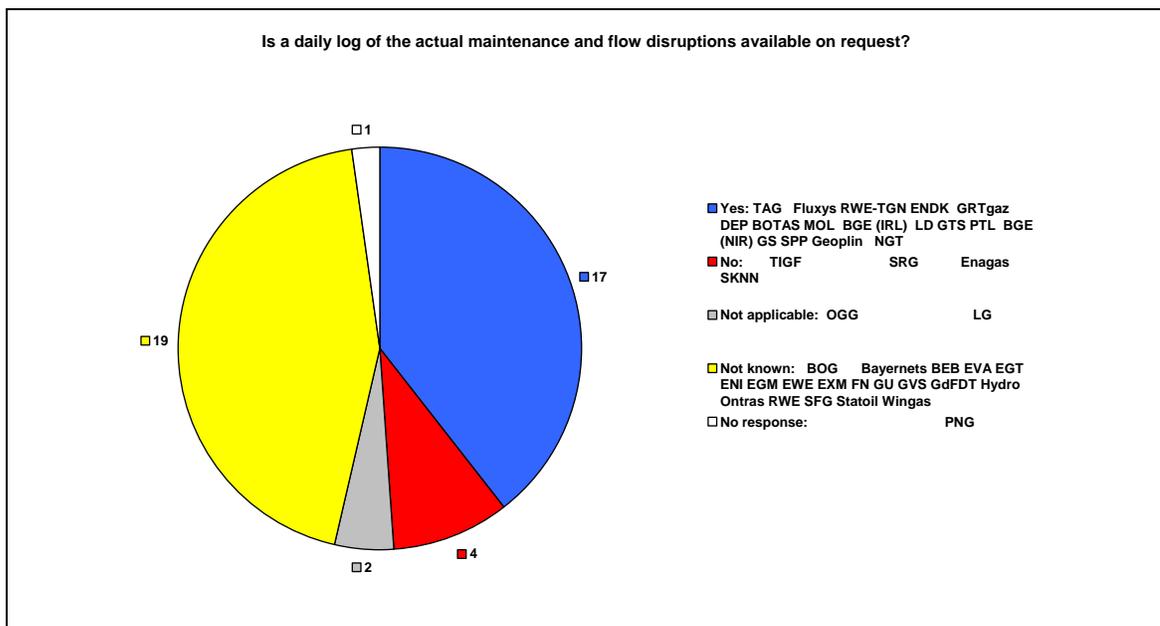
Figure 25: If so, is such information provided to all network users?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Is a daily log of the actual maintenance and flow disruptions available on request?
- Analysis of responses

Figure 26: Is a daily log of the actual maintenance and flow disruptions available on request?

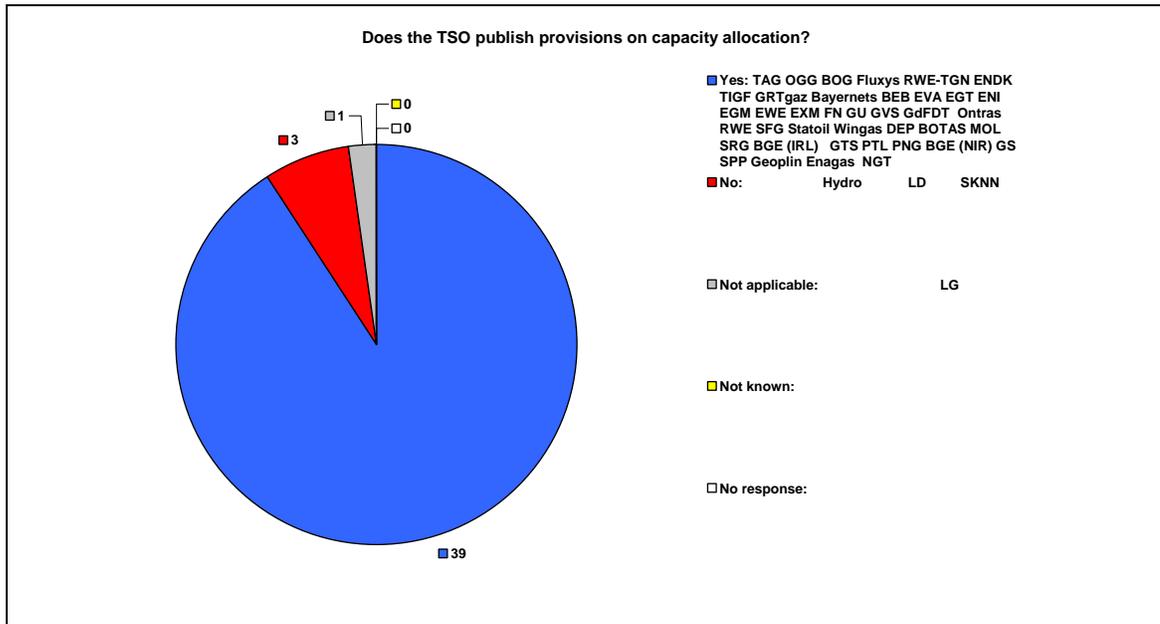


Source: ERGEG Transparency Monitoring Survey 2007

5.5. Capacity Allocation and Congestion Management (Question set 5)

- Question: Does the TSO publish provisions on capacity allocation?
- Analysis of responses

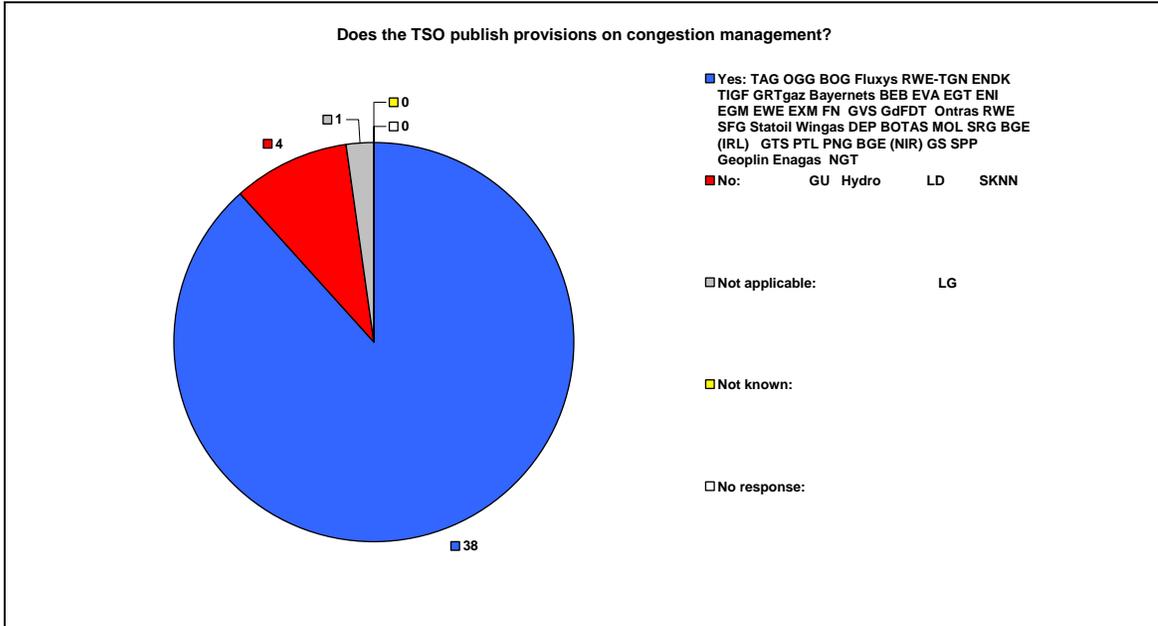
Figure 27: Does the TSO publish provisions on capacity allocation?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish provisions on congestion management?
- Analysis of responses

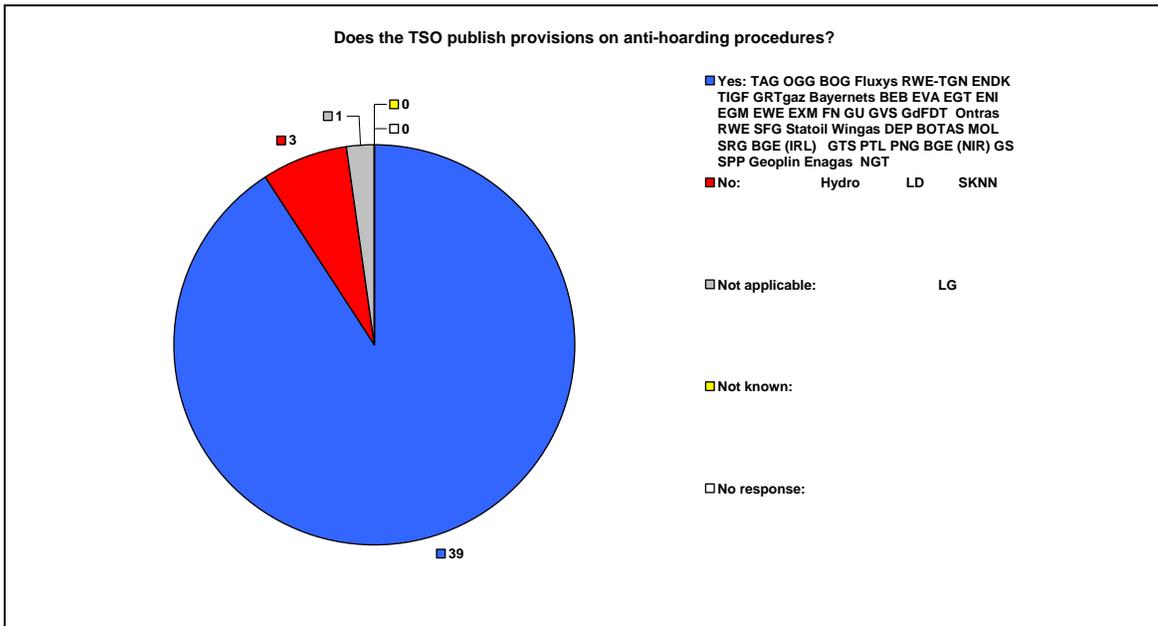
Figure 28: Does the TSO publish provisions on congestion management?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish provisions on anti-hoarding procedures?
- Analysis of responses

Figure 29: Does the TSO publish provisions on anti-hoarding procedures?

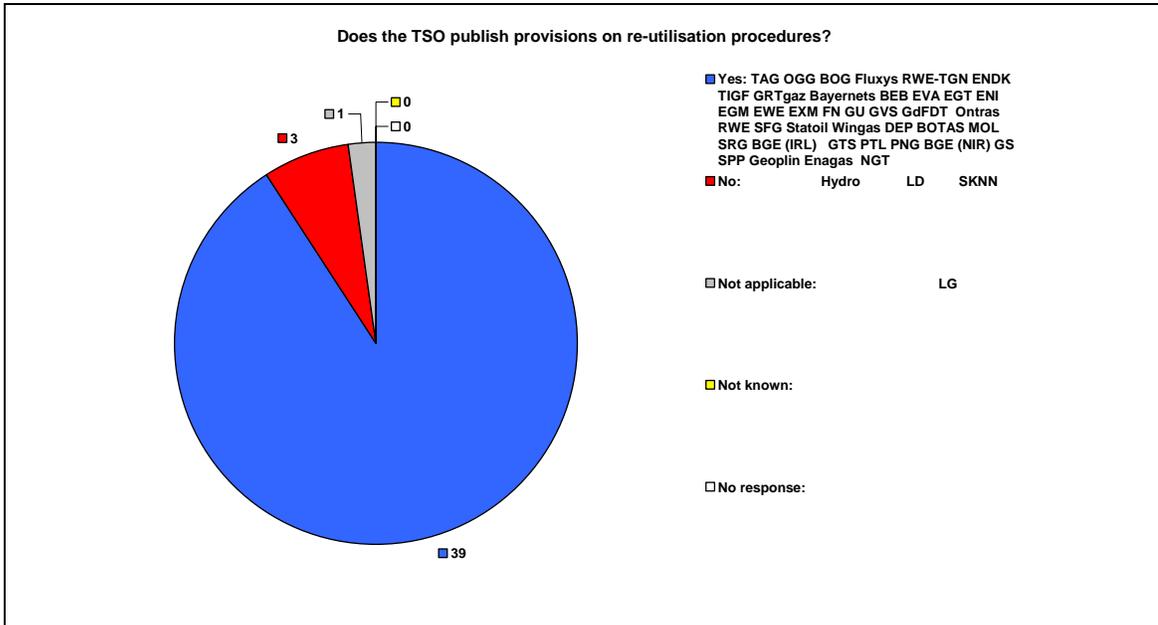


Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish provisions on re-utilisation procedures?

- Analysis of responses

Figure 30: Does the TSO publish provisions on re-utilisation procedures?

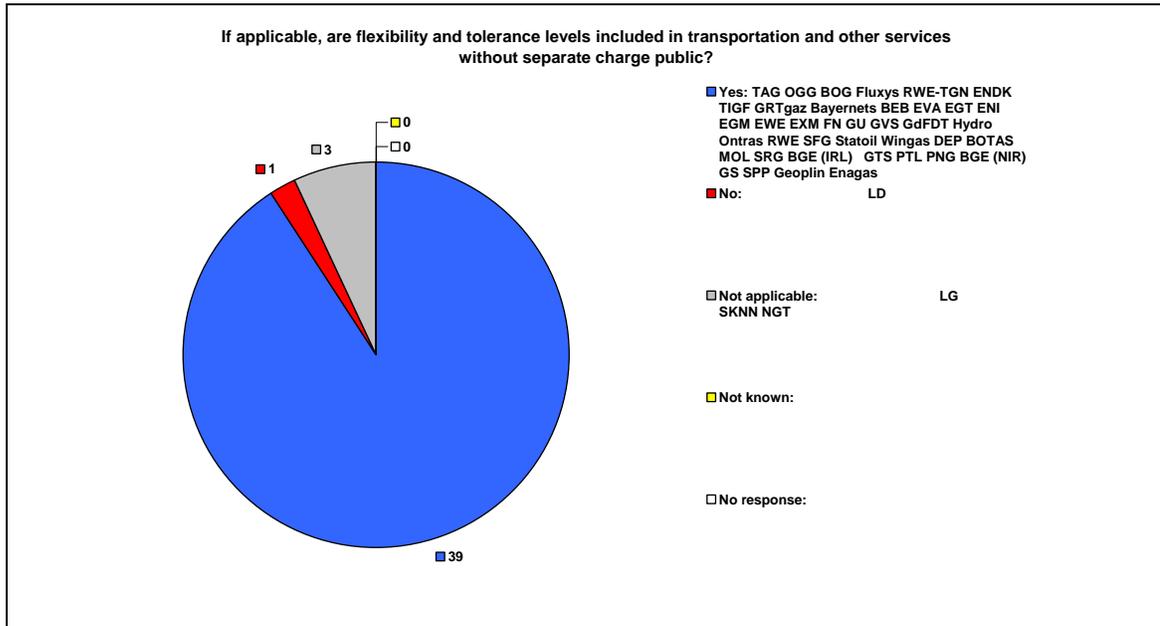


Source: ERGEG Transparency Monitoring Survey 2007

5.6. Balancing (Question set 6)

- Question: If applicable, are flexibility and tolerance levels included in transportation and other services without separate charge public?
- Analysis of responses

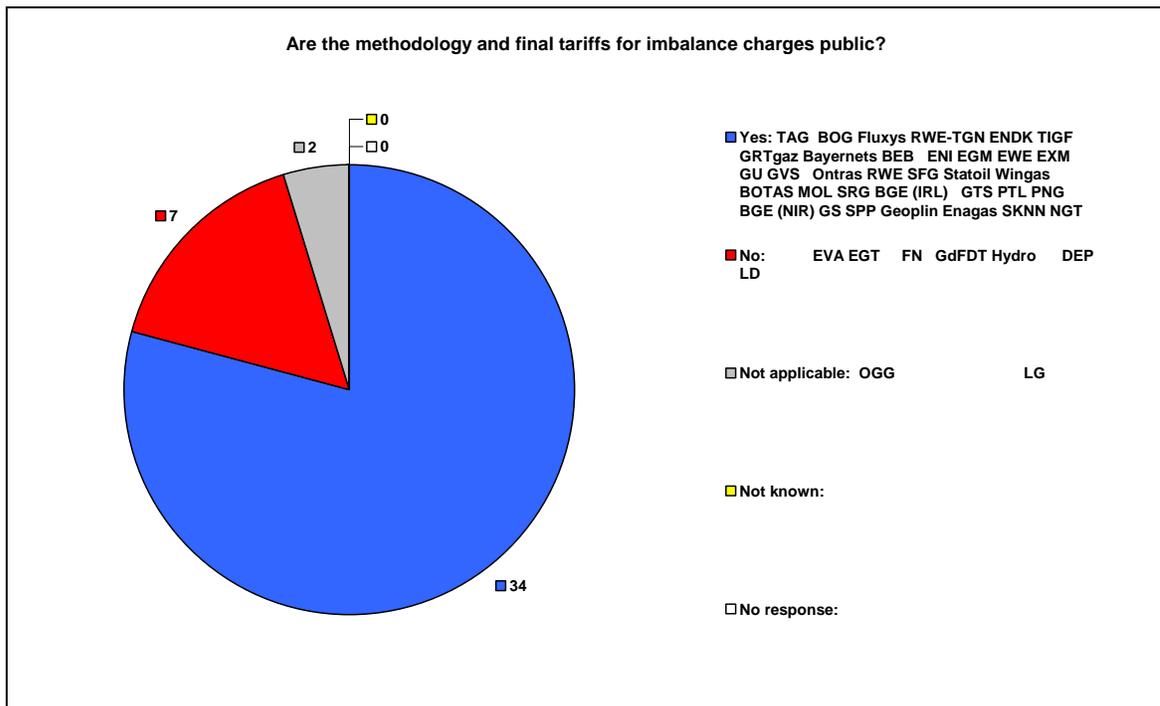
Figure 31: Are flexibility and tolerance levels included in transportation?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Are the methodology and final tariffs for imbalance charges public?
- Analysis of responses

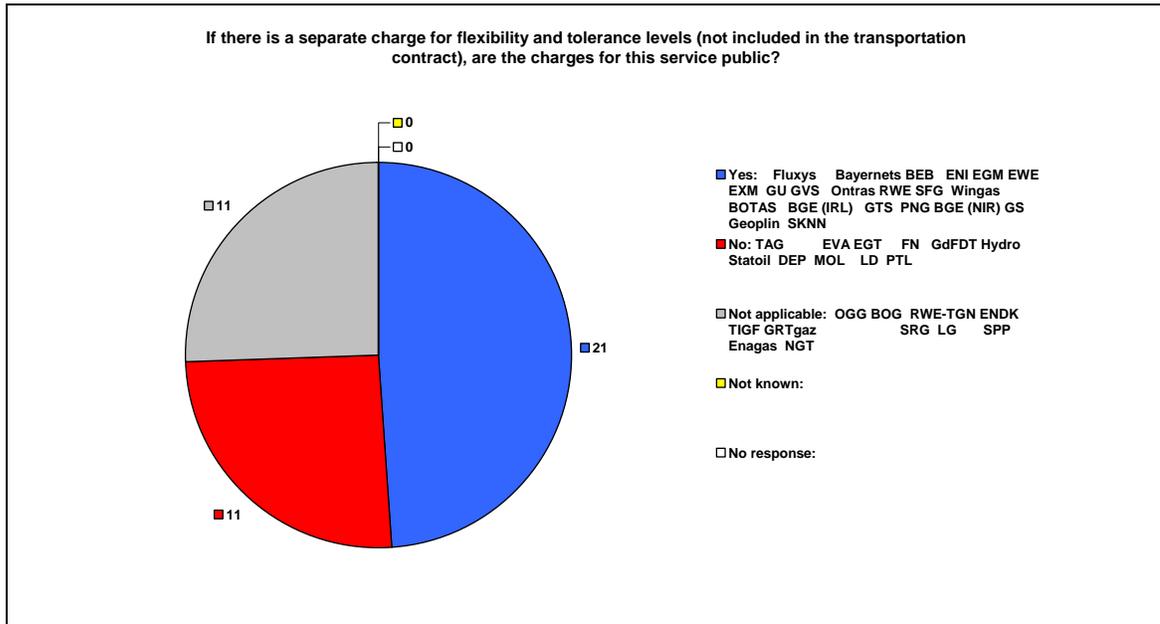
Figure 32: Are the methodology and final tariffs for imbalance charges public?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If there is a separate charge for flexibility and tolerance levels (not included in the transportation contract), are the charges for this service public?
- Analysis of responses

Figure 33: Are the charges for this service public?

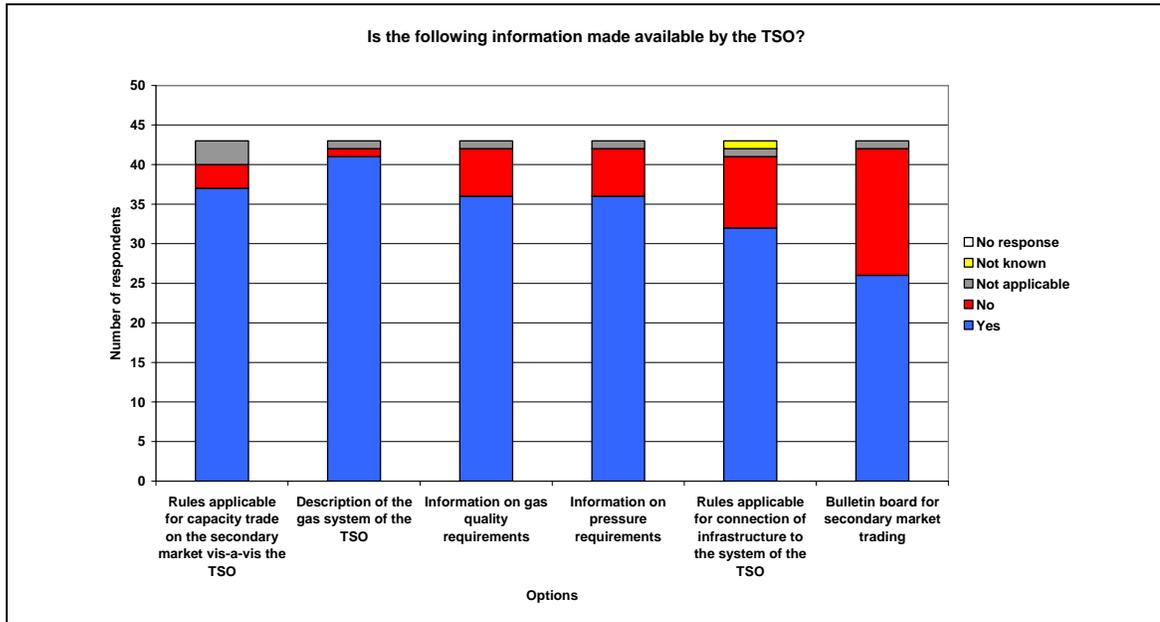


Source: ERGEG Transparency Monitoring Survey 2007

5.7. Technical Information (Question set 7)

- Question: TSOs have to publish at least certain information about their systems and services. Please specify if the following information is made available by the TSO.
- Detailed questions:
 1. Rules applicable for capacity trade on the secondary market vis-a-vis the TSO
 2. Description of the gas system of the TSO indicating all relevant points interconnecting its system with that of other TSOs and/or gas infrastructure such as LNG facilities and infrastructure necessary for providing ancillary services as defined by Article 2(14) of Directive 2003/55/EC
 3. Information on gas quality requirements
 4. Information on pressure requirements
 5. Rules applicable for connection of infrastructure to the system of the TSO
 6. Bulletin board for secondary market trading [Note: beyond the requirements of the Regulation]"
- Analysis of responses

Figure 34: Is the following information made available by the TSO?

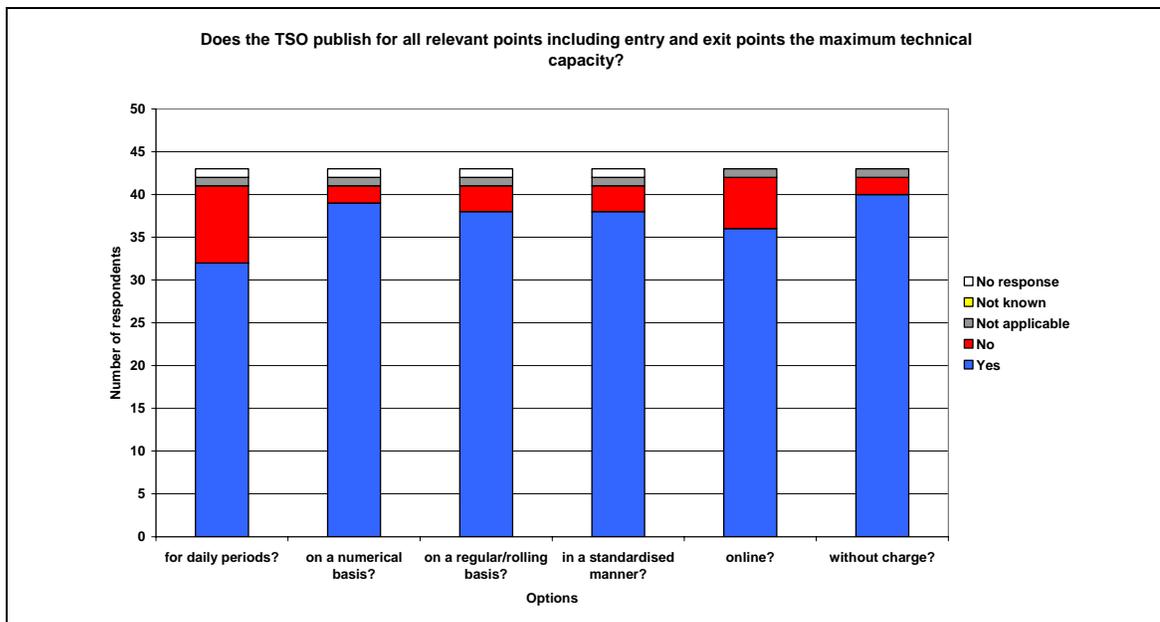


Source: ERGEG Transparency Monitoring Survey 2007

5.8. Capacity (Question set 8)

- Question: Does the TSO publish for all relevant points including entry and exit points the maximum technical capacity?
- Analysis of responses

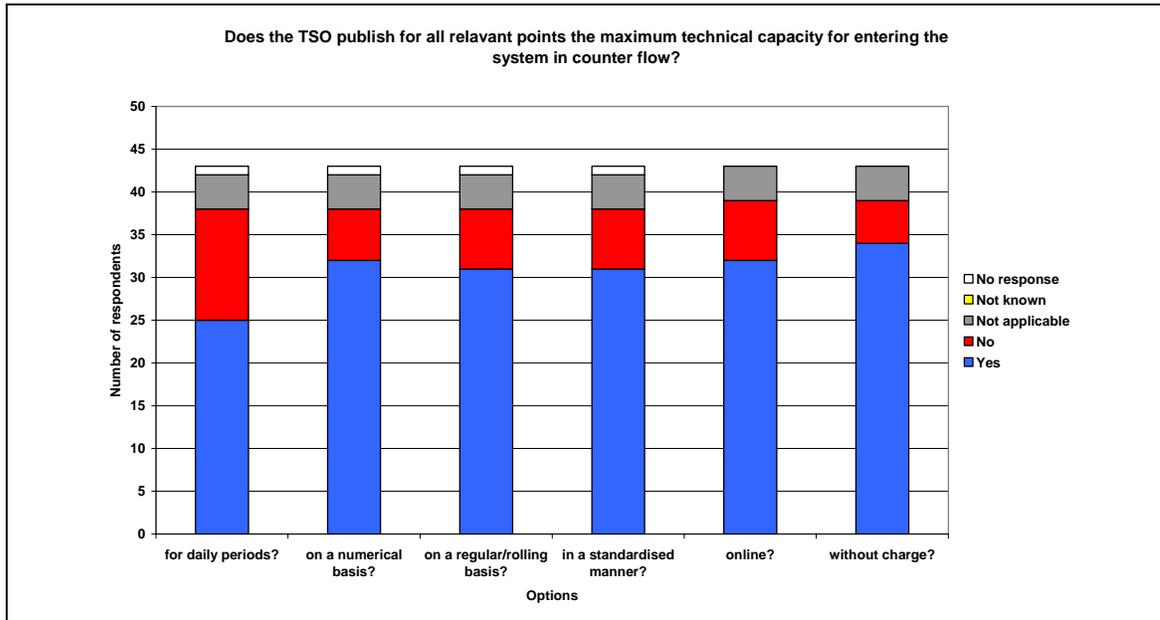
Figure 35: Does the TSO publish the maximum technical capacity?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish for all relevant points the maximum technical capacity for entering the system in counter flow?
- Analysis of responses

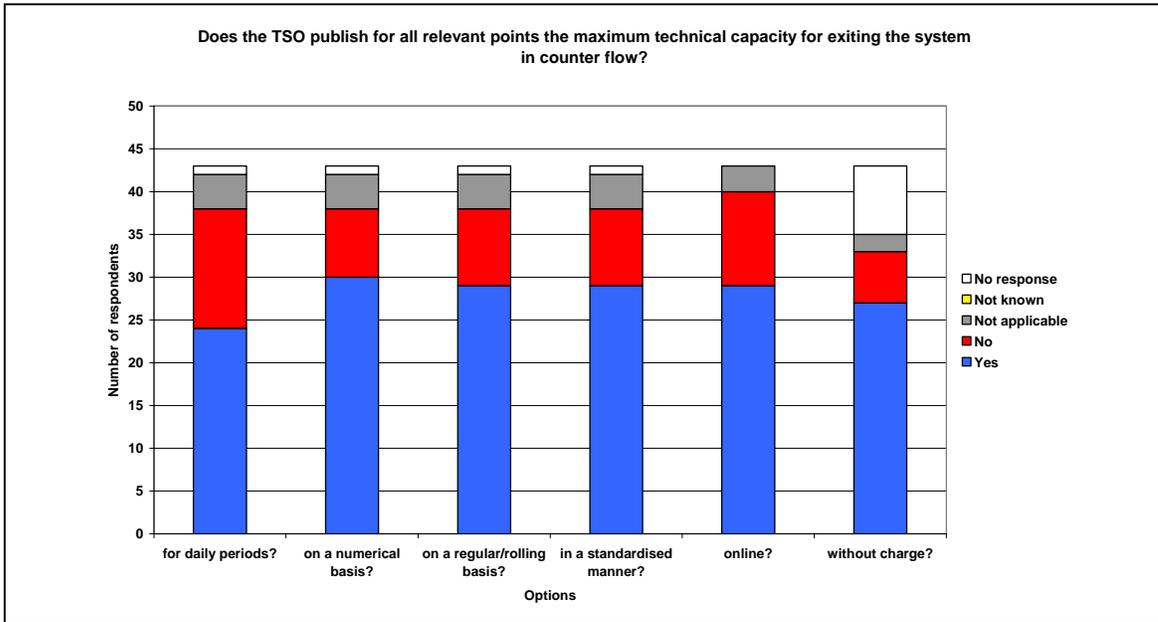
Figure 36: Does the TSO publish the maximum technical capacity (entry/counter flow)?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish for all relevant points the maximum technical capacity for exiting the system in counter flow?
- Analysis of responses

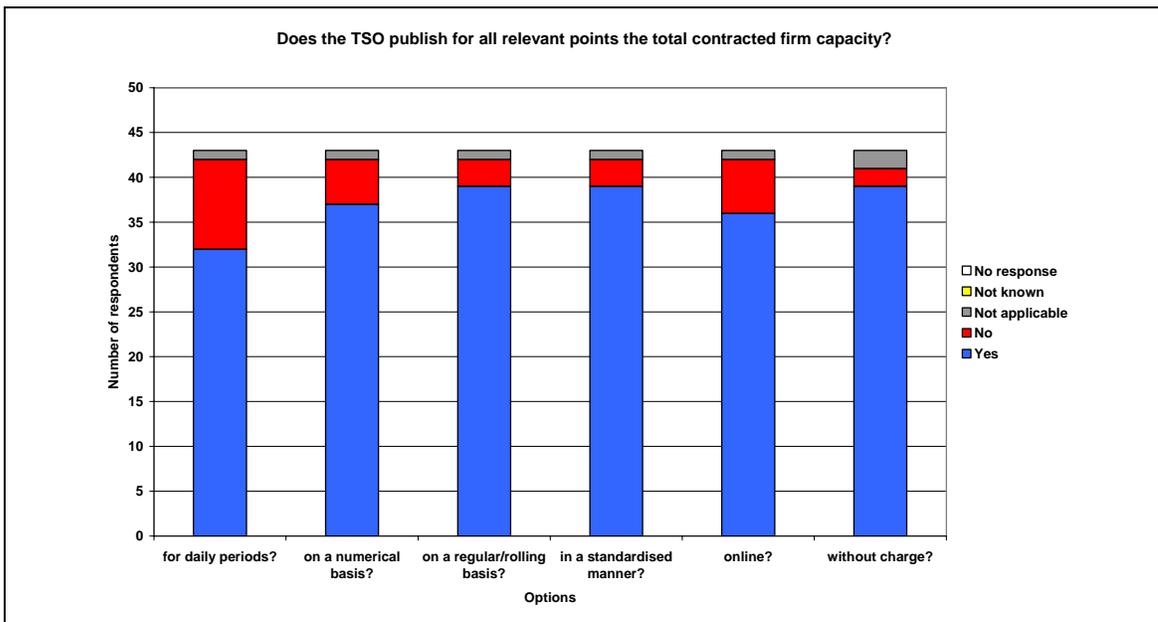
Figure 37: Does the TSO publish the maximum technical capacity (exit/counter flow)?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish for all relevant points the total contracted firm capacity?
- Analysis of responses

Figure 38: Does the TSO publish the total contracted firm capacity?

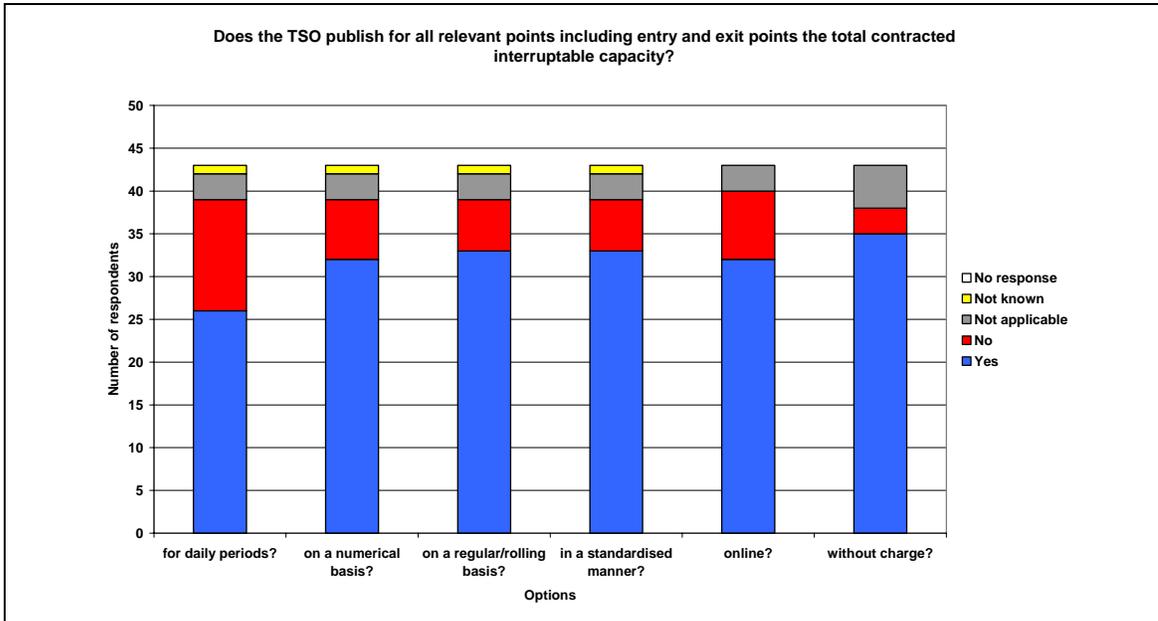


Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish for all relevant points the total contracted interruptible capacity?

- Analysis of responses

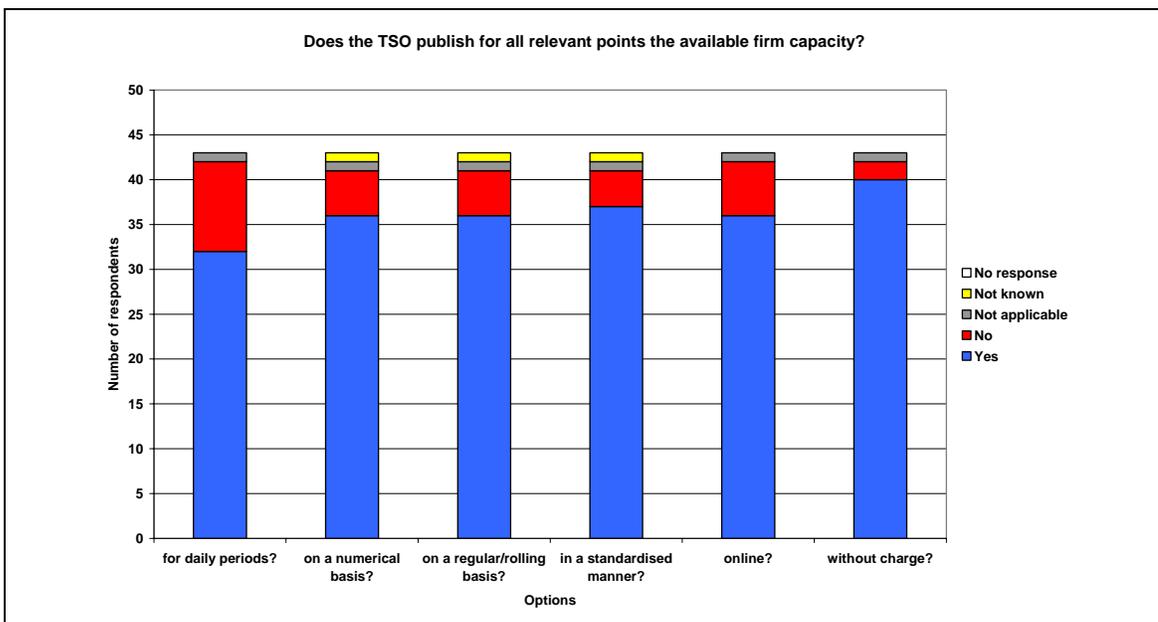
Figure 39: Does the TSO publish the total contracted interruptible capacity?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish for all relevant points the available firm capacity?
- Analysis of responses

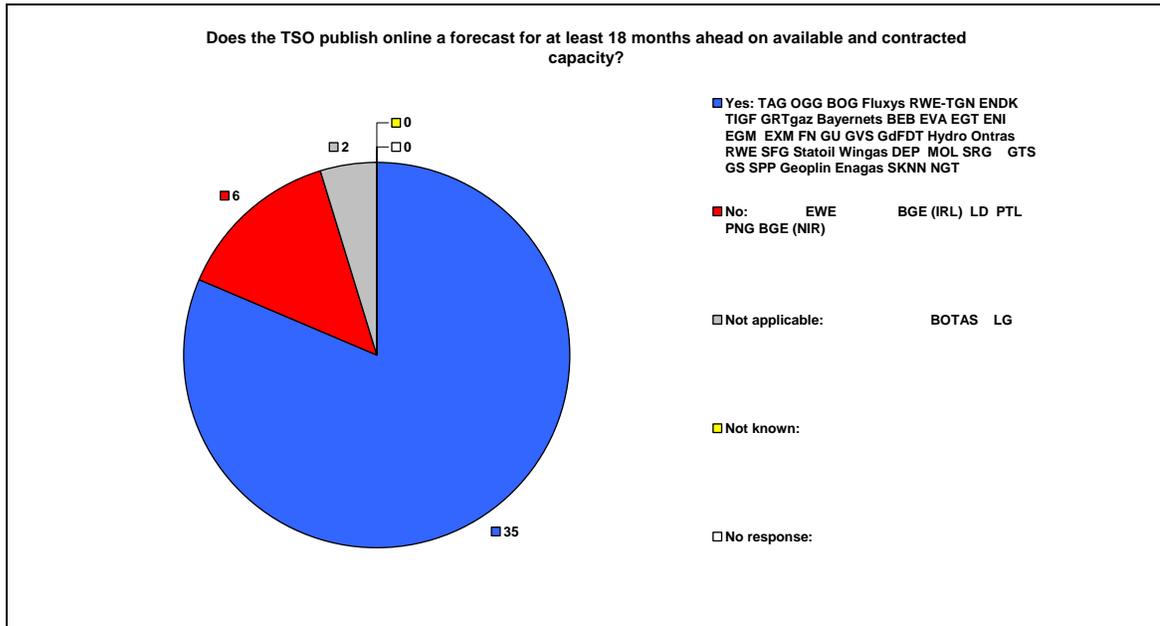
Figure 40: Does the TSO publish the available firm capacity?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish online a forecast for at least 18 months ahead on available and contracted capacity?
- Analysis of responses

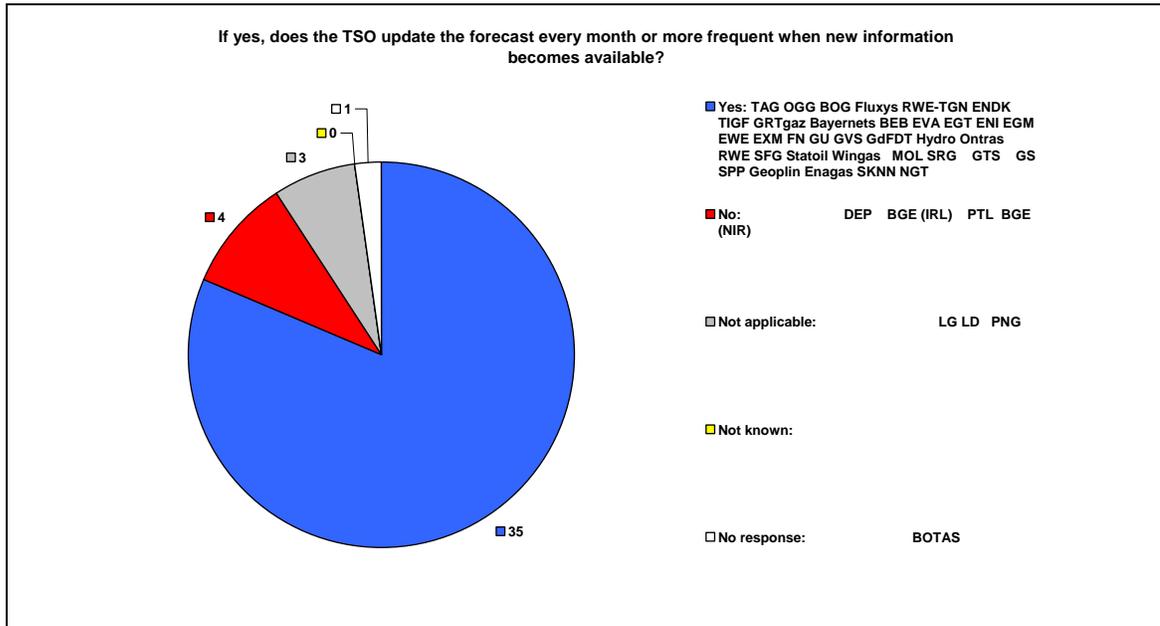
Figure 41: Does the TSO publish online a forecast for available and contracted capacity?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If yes, does the TSO update the forecast every month or more frequent when new information becomes available?
- Analysis of responses

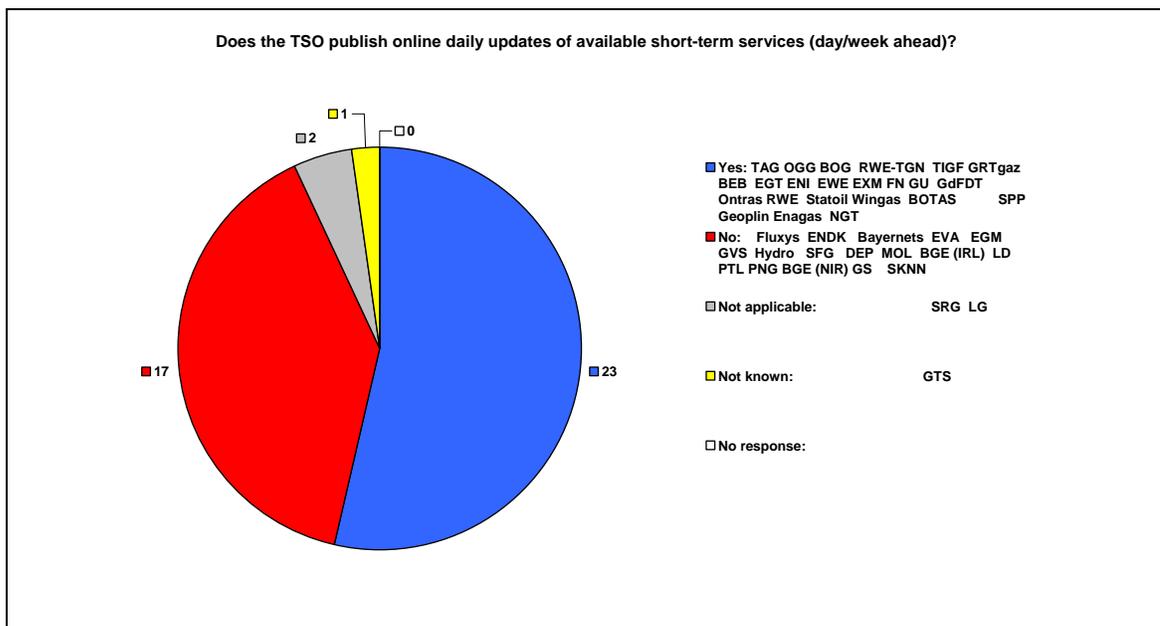
Figure 42: If yes, does the TSO update the forecast?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish online daily updates of available short-term services (day/week ahead)?
- Analysis of responses

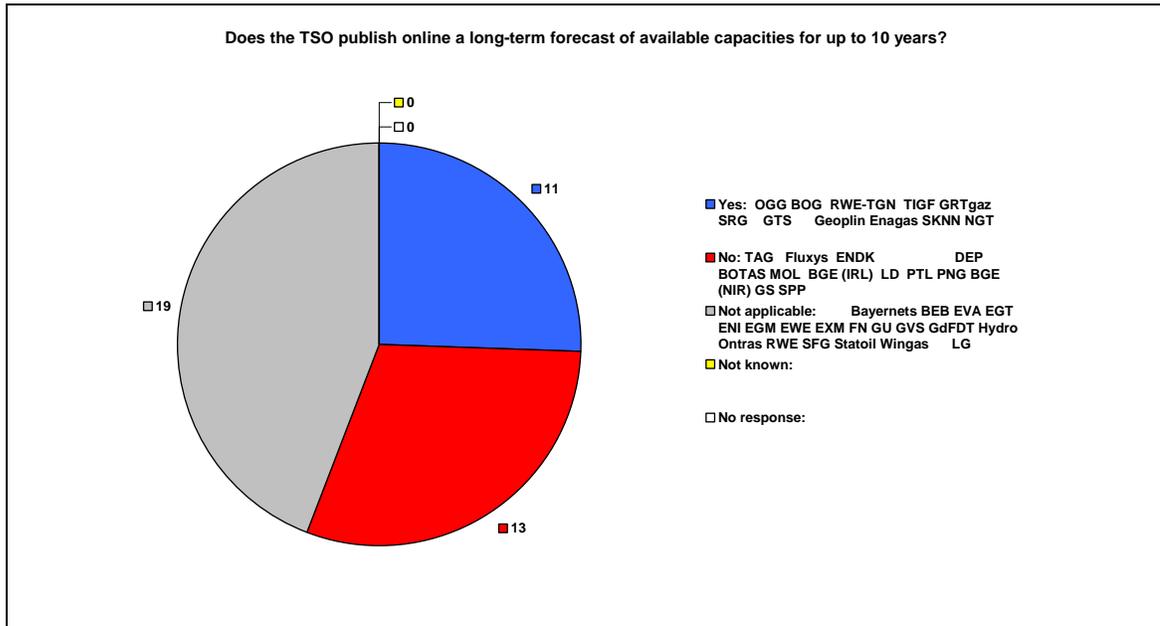
Figure 43: Does the TSO publish online daily updates?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish online a long-term forecast of available capacities for up to 10 years?
- Analysis of responses

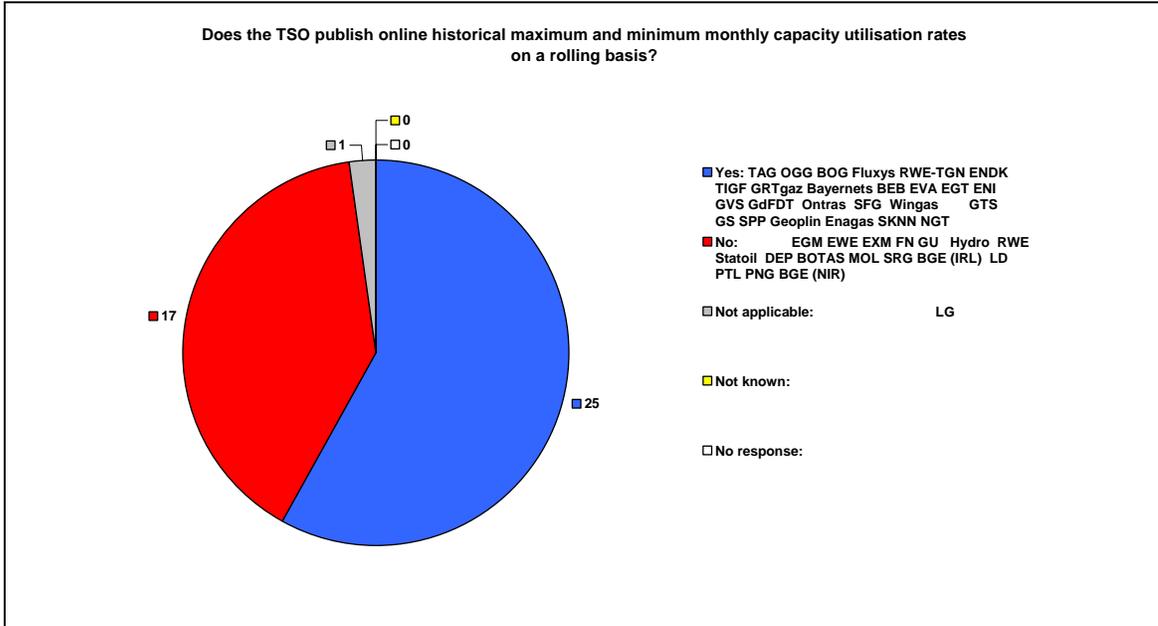
Figure 44: Does the TSO publish online a long-term forecast of available capacities?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish online historical maximum and minimum monthly capacity utilisation rates on a rolling basis?
- Analysis of responses

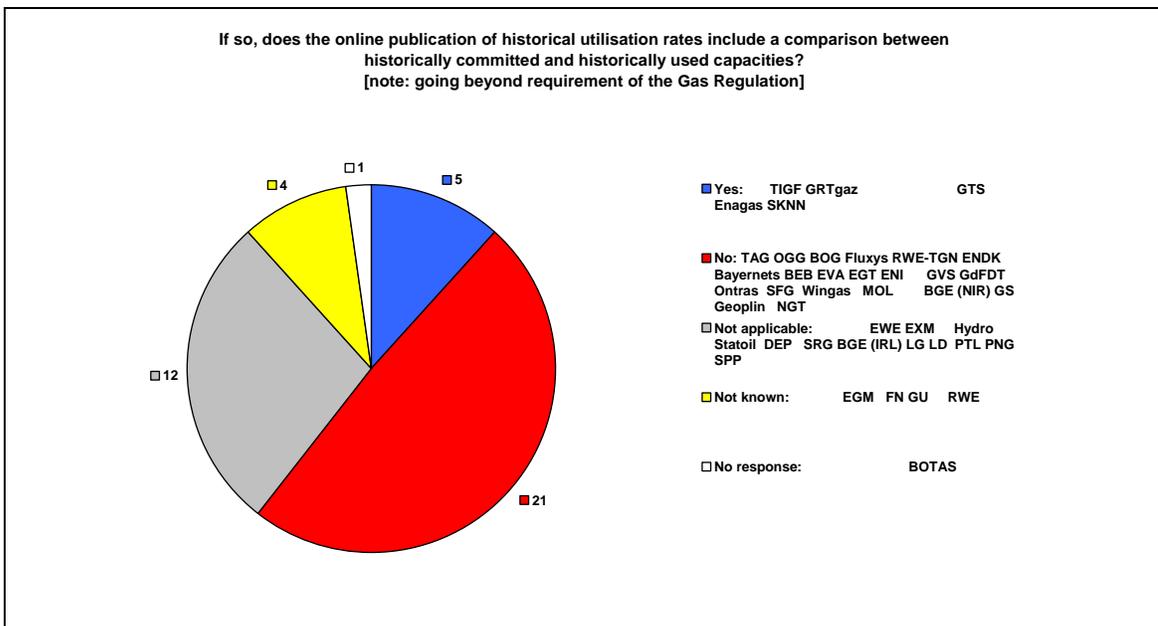
Figure 45: Does the TSO publish monthly capacity utilisation rates?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If so, does the online publication of historical utilisation rates include a comparison between historically committed and historically used capacities? [note: going beyond requirement of the Gas Regulation]
- Analysis of responses

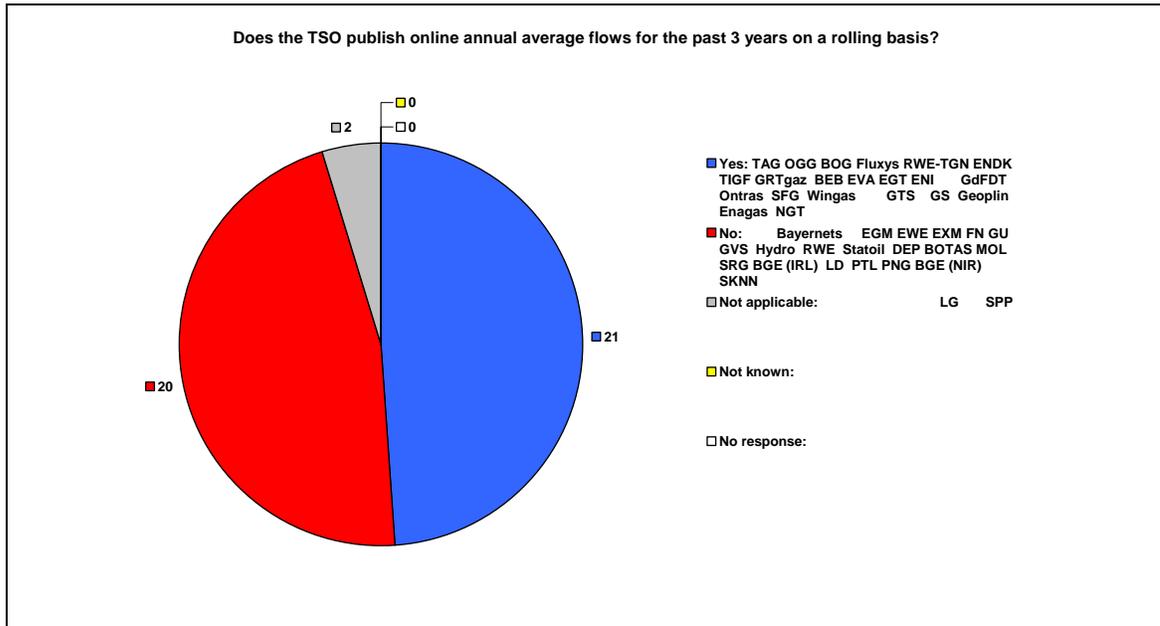
Figure 46: Does the online publication include a comparison between capacities?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish online annual average flows for the past 3 years on a rolling basis?
- Analysis of responses

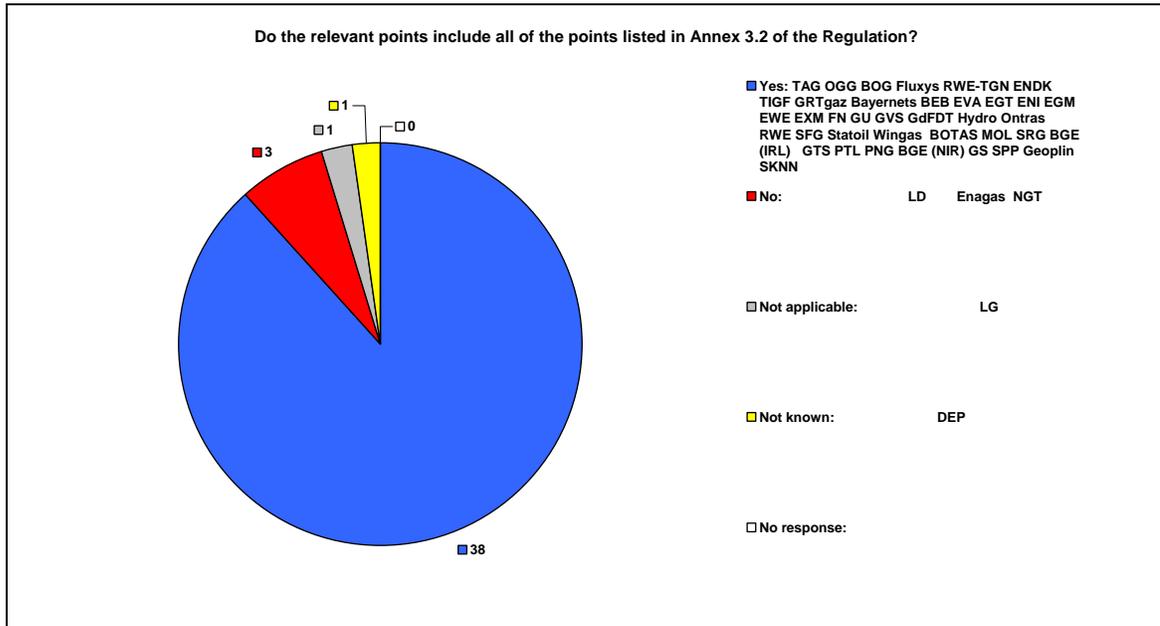
Figure 47: Does the TSO publish online annual average flows?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Do the relevant points include all of the points listed in Annex 3.2 of the Regulation?
- Analysis of responses

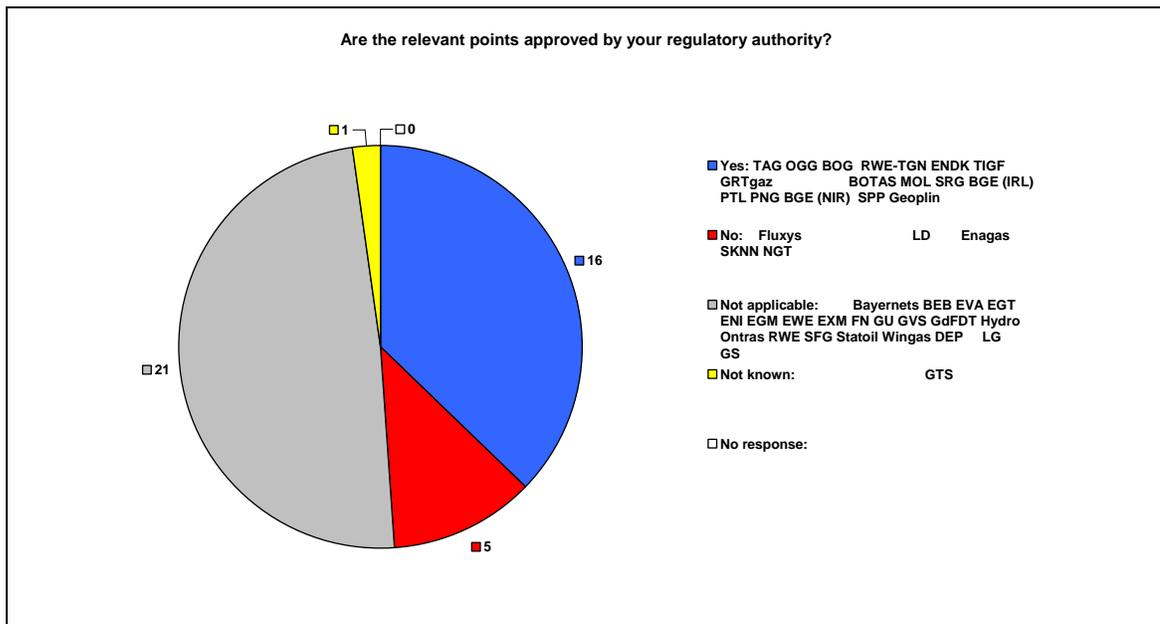
Figure 48: Do the relevant points include all of the points listed in Annex 3.2 of the Regulation?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Are the relevant points approved by your regulatory authority?
- Analysis of responses

Figure 49: Are the relevant points approved by your regulatory authority?

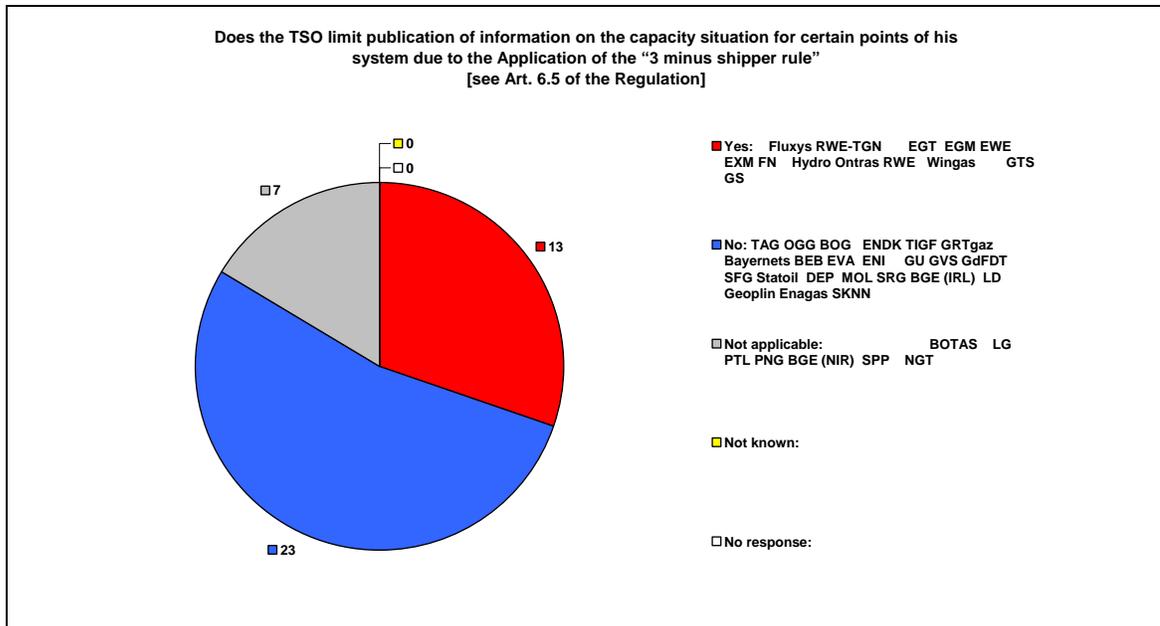


Source: ERGEG Transparency Monitoring Survey 2007

5.9. Exemptions (Question set 9)

- Question: Does the TSO limit publication of information on the capacity situation for certain points of his system due to the Application of the “3 minus shipper rule” [see Art. 6.5 of the Regulation]
- Analysis of responses

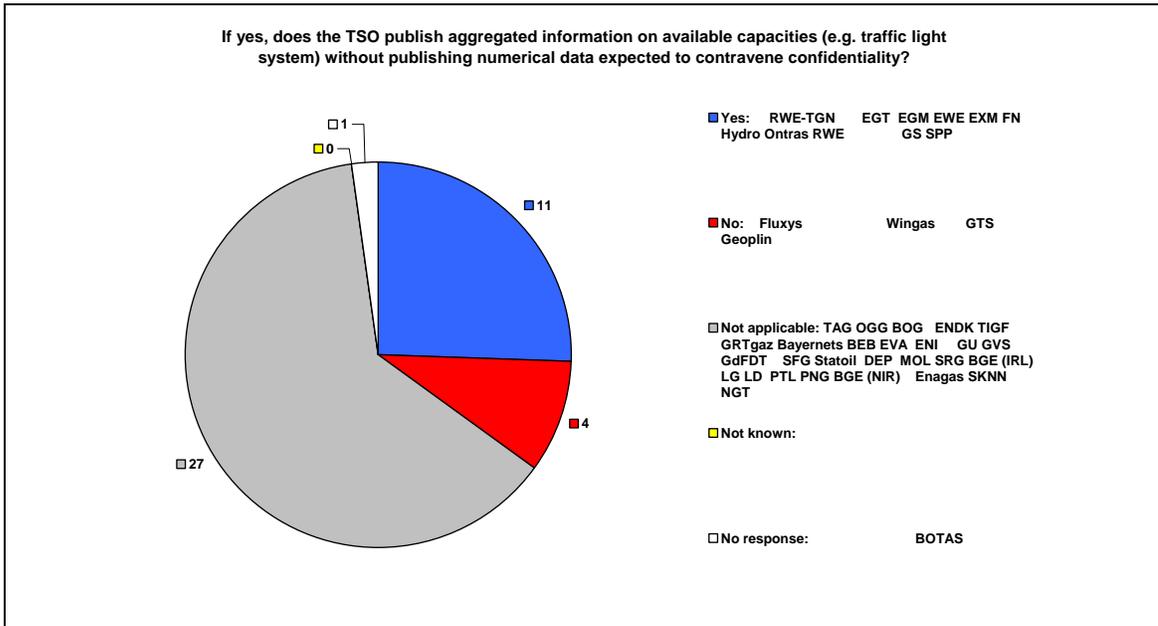
Figure 50: Does the TSO limit publication of information (3 minus shipper rule)?



Source: ERGEG Transparency Monitoring Survey 2007

- Comment: Given the way this question had been phrased, the colours have been inverted in the figure above (red=Yes, blue=no).
- Question: If yes, does the TSO publish aggregated information on available capacities (e.g. traffic light system) without publishing numerical data expected to contravene confidentiality?
- Analysis of responses

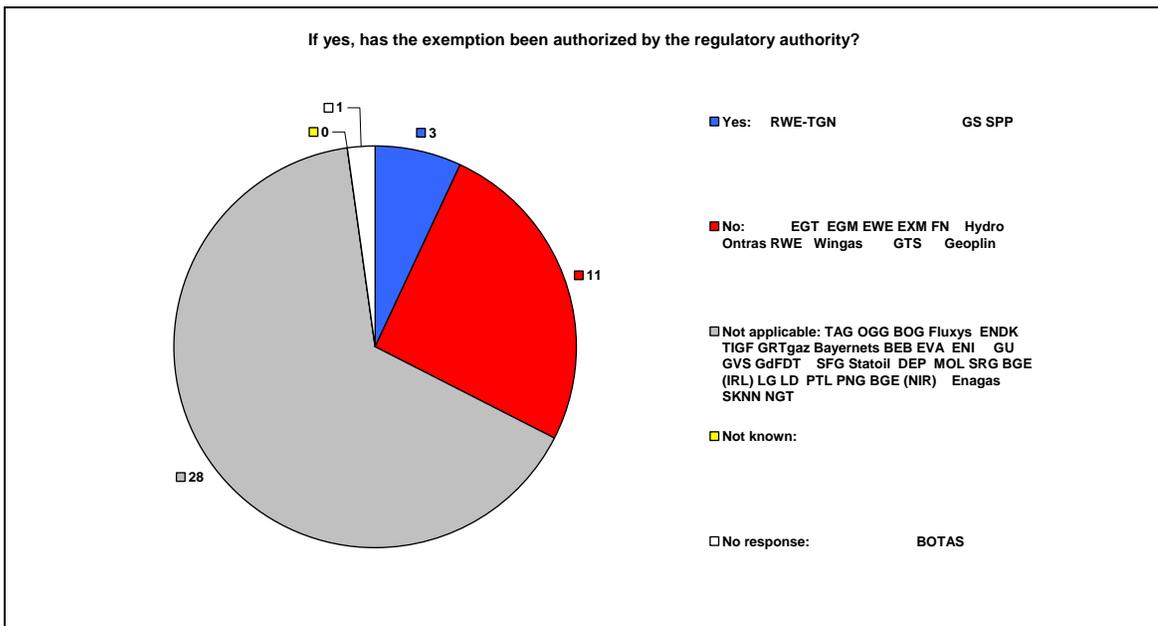
Figure 51: Does the TSO publish aggregated information on available capacities?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If yes, has the exemption been authorized by the regulatory authority?
- Analysis of responses

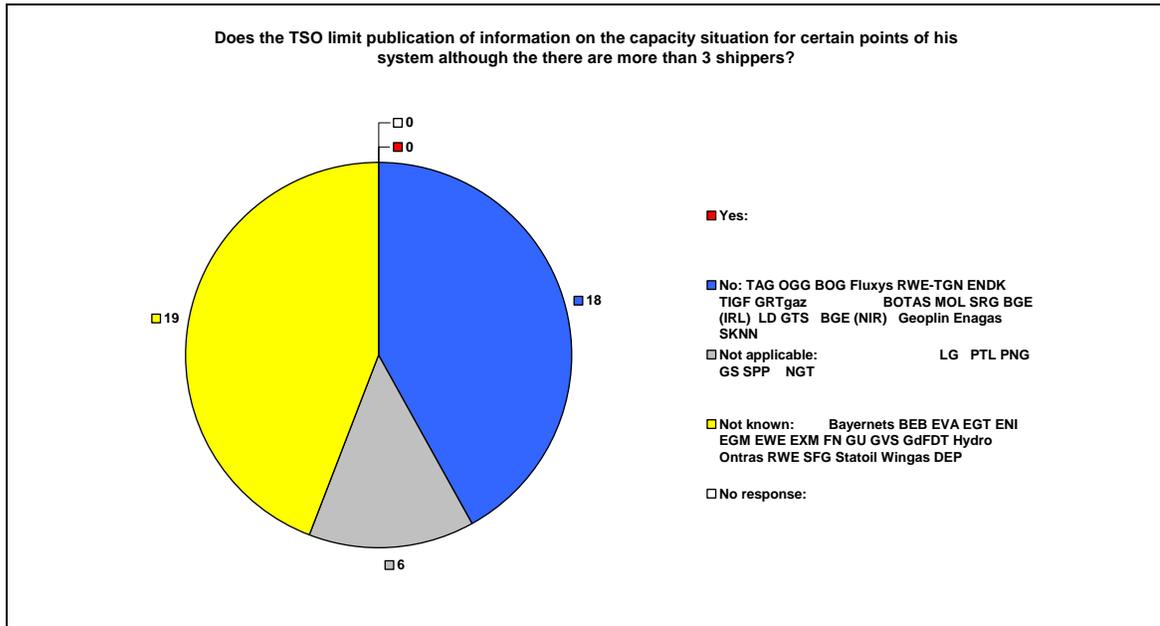
Figure 52: Has the exemption been authorized by the regulatory authority?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO limit publication of information on the capacity situation for certain points of his system although the there are more than 3 shippers?
- Analysis of responses

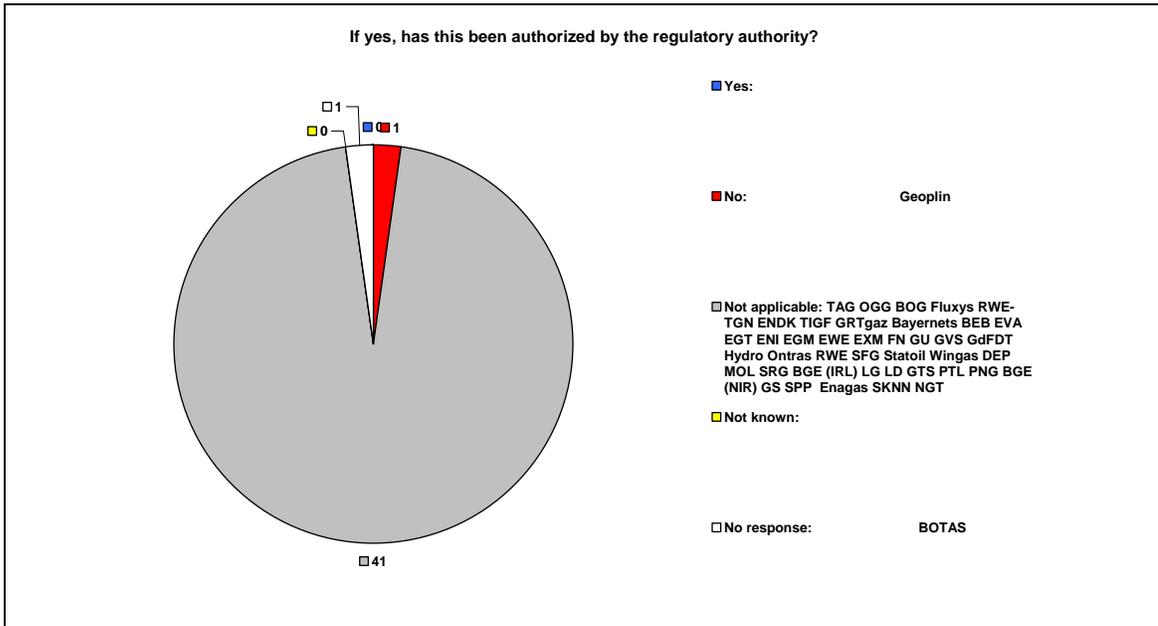
Figure 53: Does the TSO limit publication of information on the capacity situation?



Source: ERGEG Transparency Monitoring Survey 2007

- Comment: Given the way this question had been phrased, the colours have been inverted in the figure above (red=Yes, blue=no).
- Question: If yes, has this been authorized by the regulatory authority?
- Analysis of responses

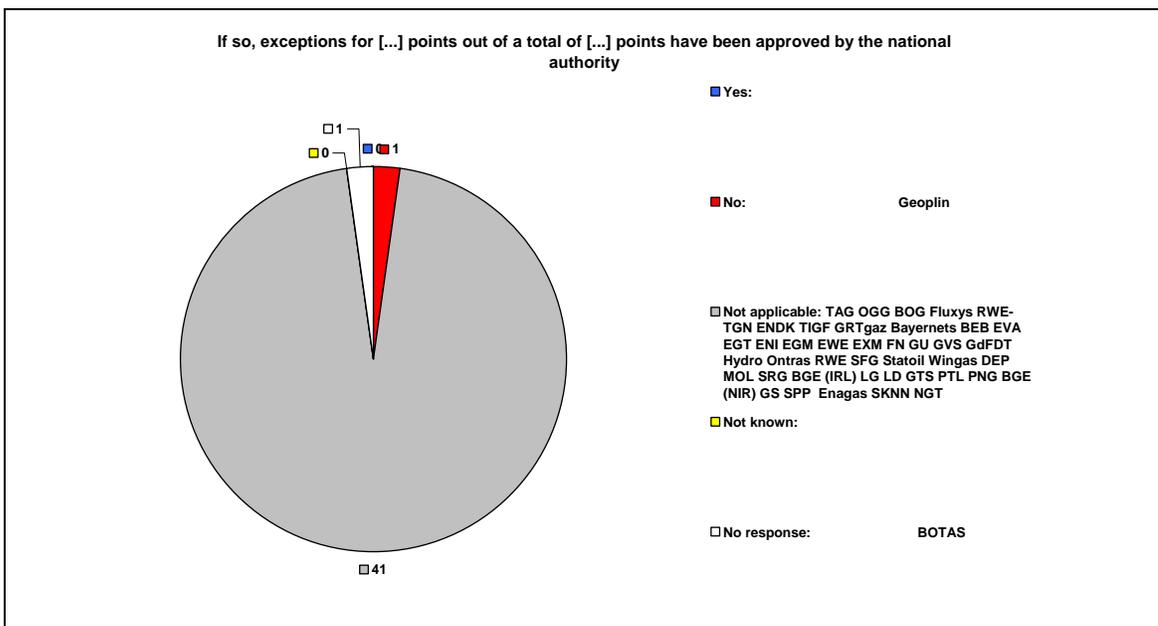
Figure 54: Has this been authorized by the regulatory authority?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If so, exceptions for [...] points out of a total of [...] points have been approved by the national authority
- Analysis of responses

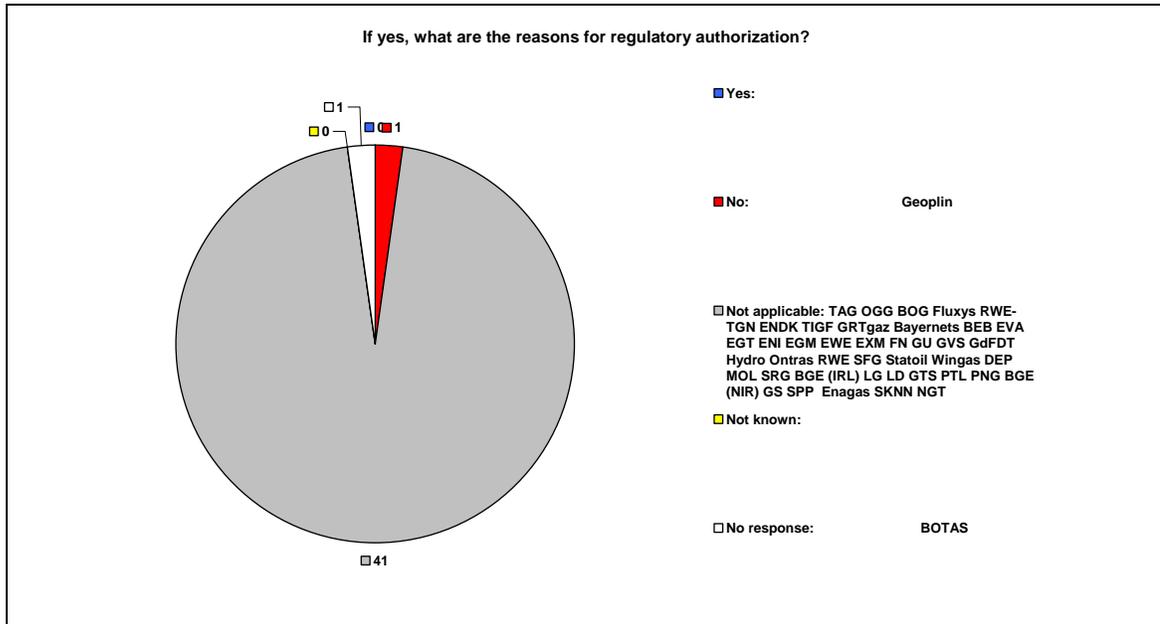
Figure 55: Exceptions for [...] points out of a total of [...] points have been approved



Source: ERGEG Transparency Monitoring Survey 2007

- Question: If yes, what are the reasons for regulatory authorization?
- Analysis of responses

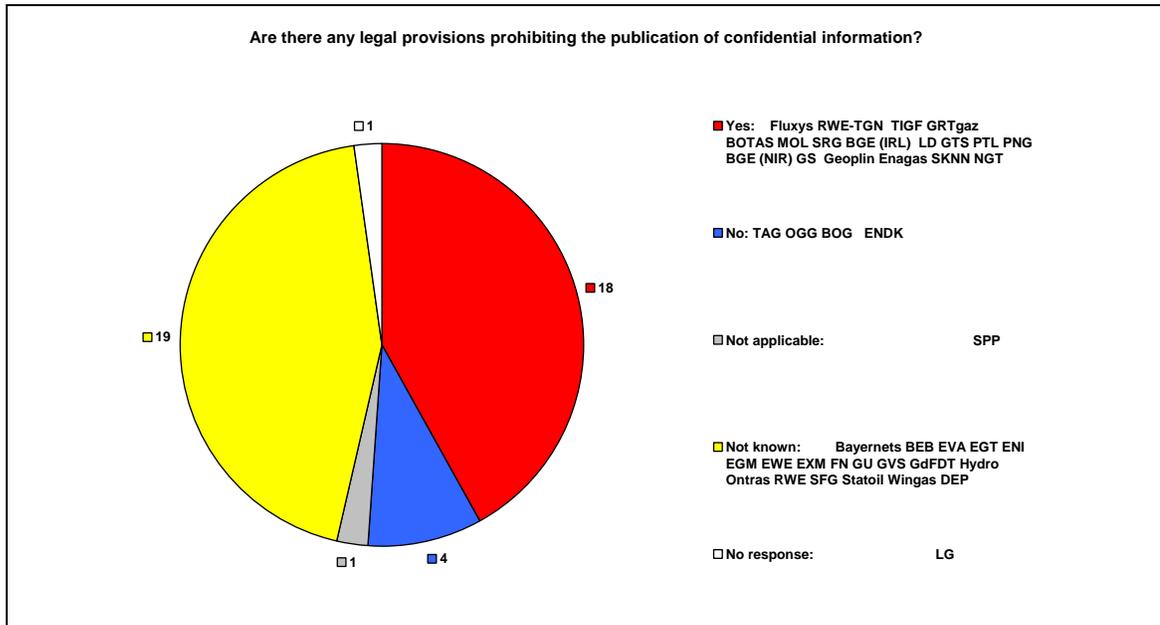
Figure 56: What are the reasons for regulatory authorization?



Source: ERGEG Transparency Monitoring Survey 2007

- With regard to the figure above (question: “What are the reasons for regulatory authorization?”), it needs to be emphasised that almost all respondents answered this question with “not applicable”. Only one respondent answered the question with “no”. One respondent did not answer the question. No in depth answers of a qualitative nature were received to this question.
- Question: Are there any legal provisions prohibiting the publication of confidential information?
- Analysis of responses

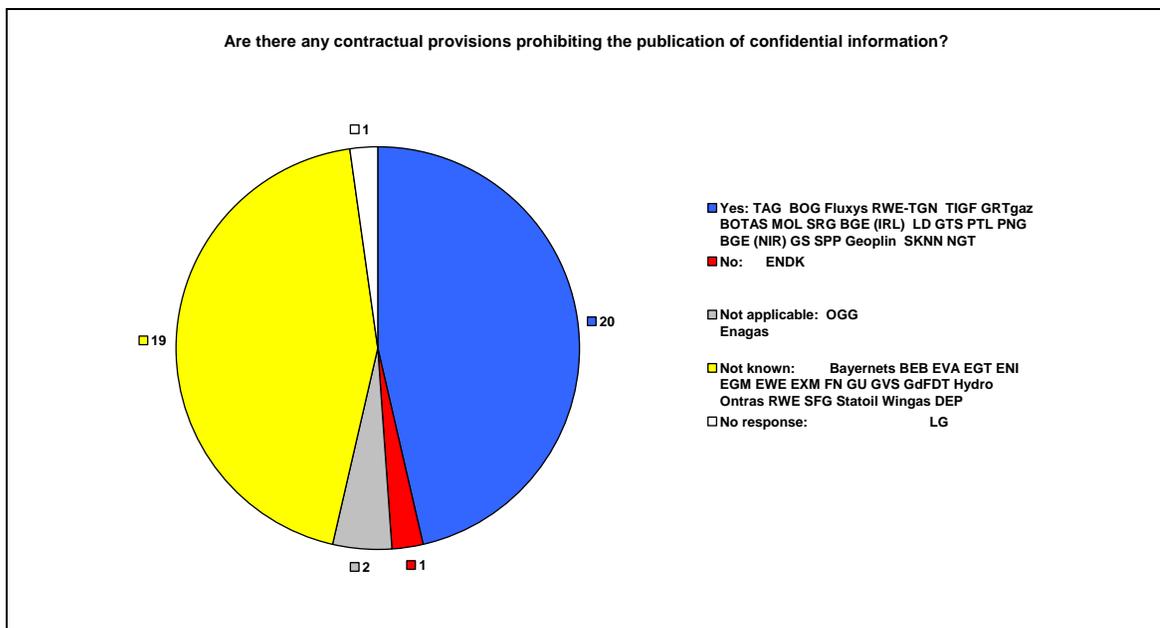
Figure 57: Are there any legal provisions prohibiting the publication of confidential information?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Are there any contractual provisions prohibiting the publication of confidential information?
- Analysis of responses

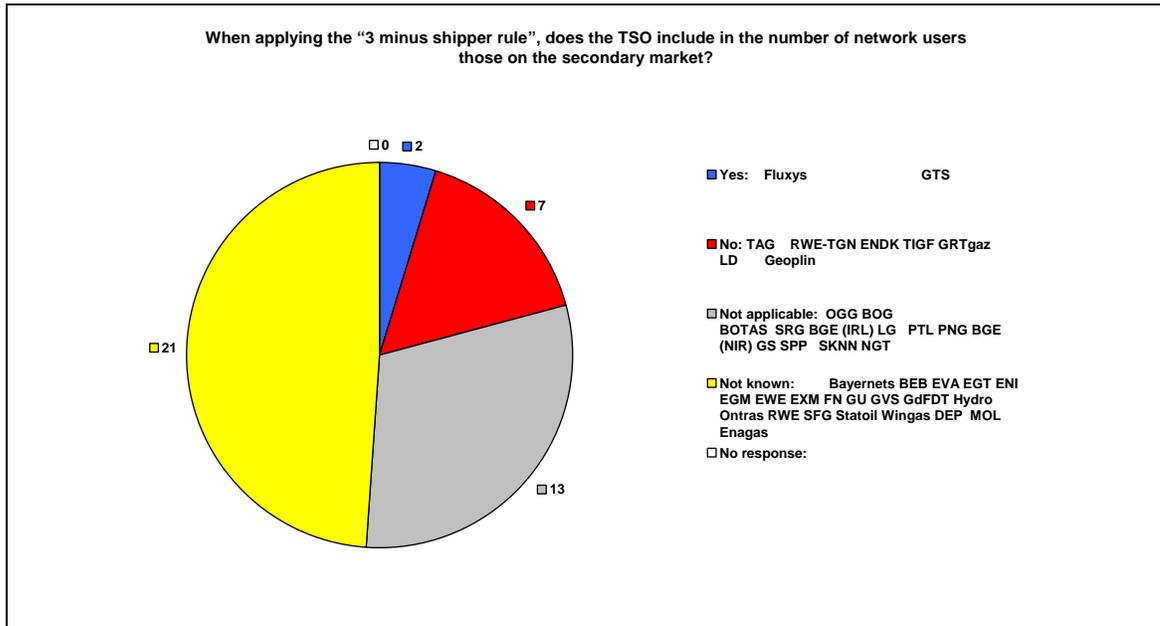
Figure 58: Contractual provisions prohibiting the publication of confidential information



Source: ERGEG Transparency Monitoring Survey 2007

- Question: When applying the “3 minus shipper rule”, does the TSO include in the number of network users those on the secondary market?
- Analysis of responses

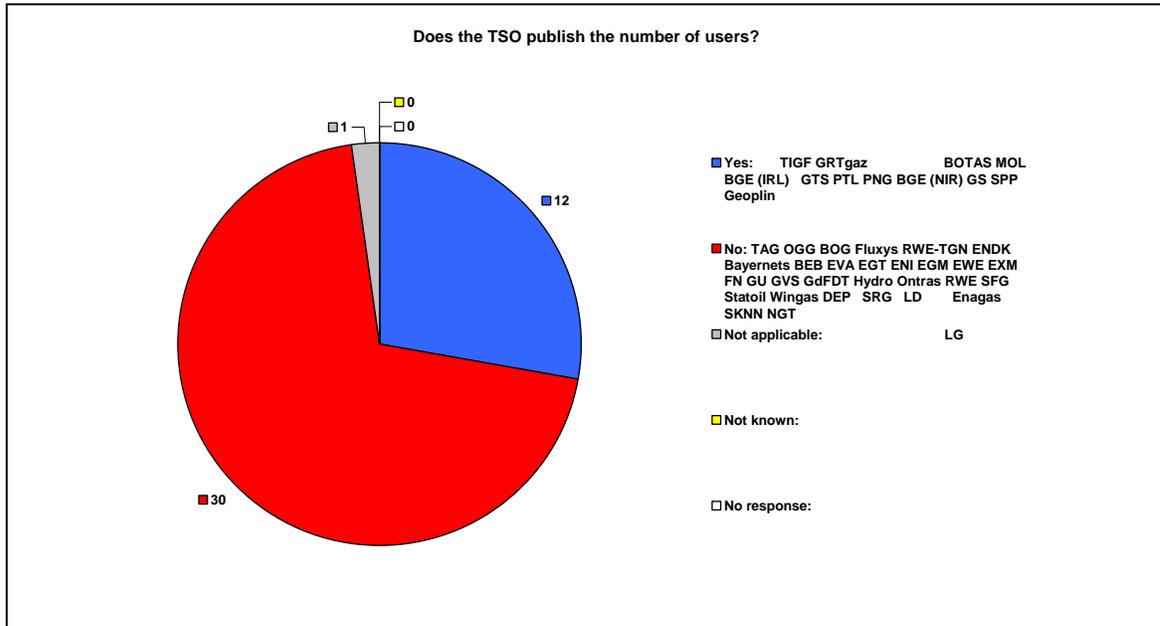
Figure 59: Does the TSO include in the number of network users (secondary market)?



Source: ERGEG Transparency Monitoring Survey 2007

- Question: Does the TSO publish the number of users?
- Analysis of responses

Figure 60: Does the TSO publish the number of users?

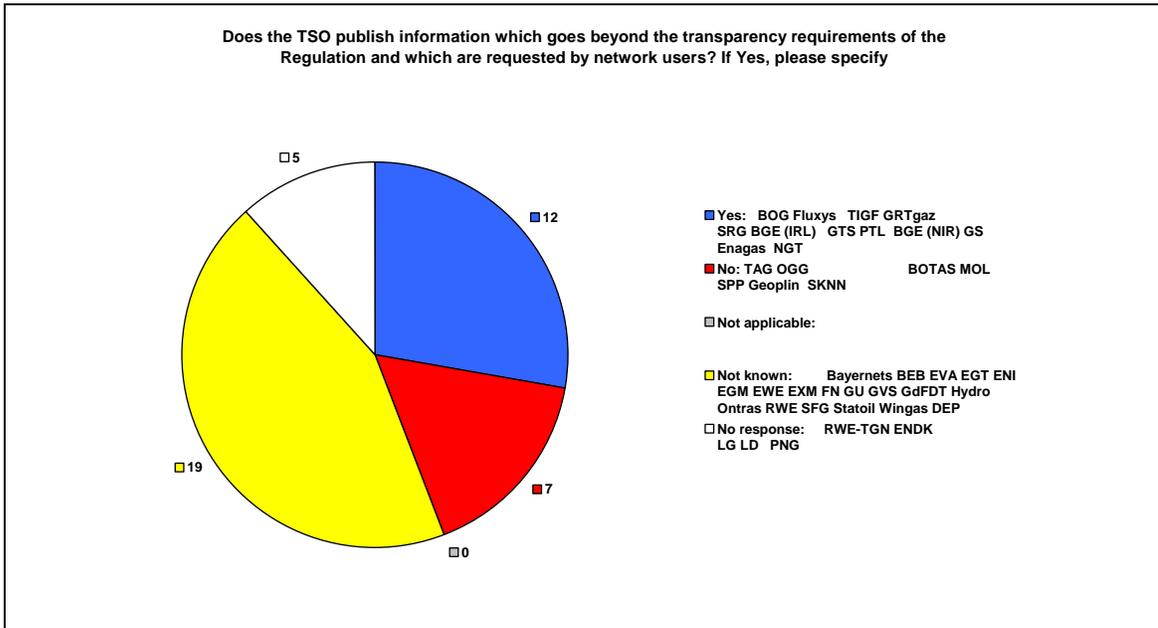


Source: ERGEG Transparency Monitoring Survey 2007

5.10. Additional Information (Question set 10)

- Question: Does the TSO publish information which goes beyond the transparency requirements of the Regulation and which are requested by network users? If Yes, please specify.
- Analysis of responses

Figure 61: Does the TSO publish information (beyond the transparency requirements)?



Source: ERGEG Transparency Monitoring Survey 2007

6. The way forward: Recommendations and outlook

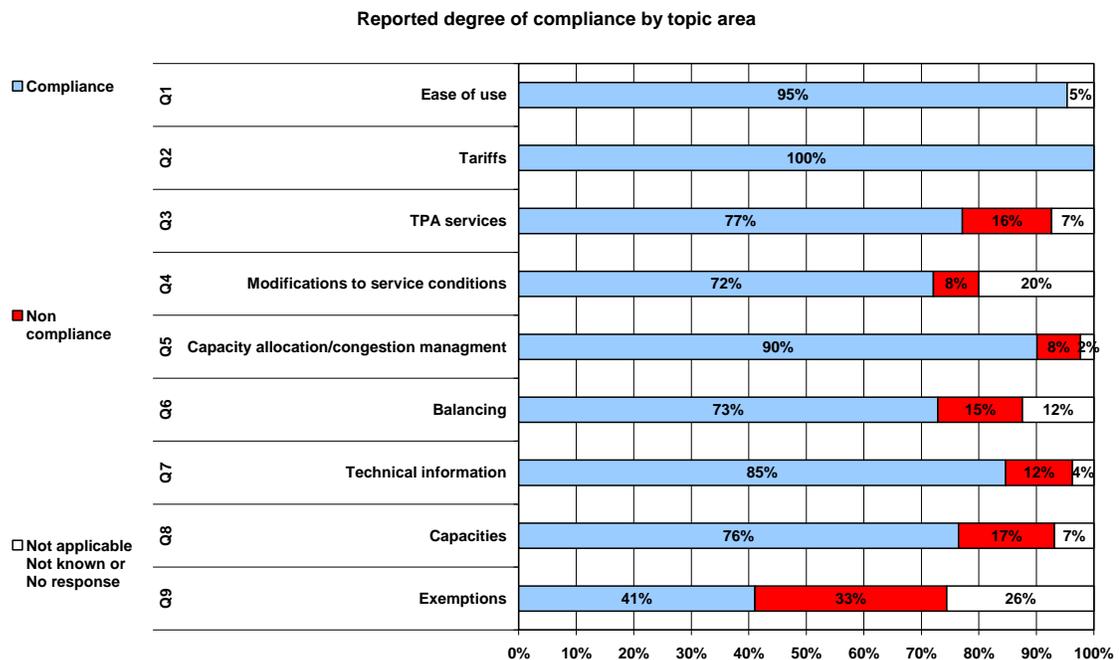
6.1. Analysis of responses by means of aggregation

The purpose of this paragraph is to provide an analysis and aggregation of responses to allow a meaningful interpretation of the results to be carried out at a glance. To allow such a meaningful and easily understandable analysis of the data provided in the Transparency Monitoring Report 2007, it is suggested to aggregate the data and assess compliance by topic area. It is important to notice that when carrying the analysis and aggregation, the 'degree of compliance' actually refers to the 'reported degree of compliance'. Furthermore, it is important to notice that the full range of potential answers (i.e. yes, not, not applicable, not known and empty cell) will be carried out to ensure a clear and unbiased representation of results. Details of the methodology of how the aggregation has been derived are outlined in Appendix 3.

EREGEG would like to stress the following issues:

- ERGEG's task has been to monitor compliance against a set of transparency requirements that ERGEG does not think are sufficient to facilitate the development of an efficient and effective market - hence our recommendations to the Commission on transparency issues. It is important to note though that this report should not to be seen as an assessment of the level of transparency in the EU gas market - rather an analysis of whether requirements in Regulation 1775/2005/EC have been put in place or not.
- ERGEG would also like to stress that the impact of the 3 minus shipper rule can be used to constrain transparency needs. ERGEG is aware, for example from its work in the GRI North-West Regional Initiative, that some regulators have seen significant number of requests for exemptions whilst other TSOs are not even informing their NRA for not publishing. As a consequence, a TSO could look compliant even where they have put in an infinite number of requests not to publish information - therefore this should not be seen as "good practice" on transparency.

The results from the analysis and aggregation of the data are as follows.

Figure 62: Reported degree of compliance by topic area


Source: ERGEG Transparency Monitoring Survey 2007

The aggregation of findings reveals a heterogeneous degree of compliance by topic area. Whilst the transparency requirements outlined in Regulation 1775/2005/EC seem to be completely implemented as far as the publication of information on tariffs is concerned, there is a lack of compliance with the existing transparency requirements. In addition, further analysis would be required to assess why in several cases so many respondents chose the answer “not applicable”, “not known” or “no response”. Ideally, all transparency requirements should apply to all TSOs.

Key implications resulting from this heterogeneous degree of compliance are presented in the next sections, together with recommendations and an outlook.

6.2. Recommendations and outlook

Findings from the monitoring exercise carried out as part of this report show a heterogeneous degree of implementation of Regulation 1775/2005/EC. Such implementation varies both in terms of the geographic implementation (by TSO and country) and by topic area (as identified in the individual question sets 1 to 10 in this report). Most strikingly, the key finding is that the EC is far away from a 100 per cent implementation of Regulation 1775/2005/EC.

The analysis presented in this report therefore suggests that more work is required in four key areas:

- Firstly, the ‘correct’, comprehensive and complete implementation of Regulation 1775/2005/EC needs to be ensured. This includes an update of information that is still missing, in particular those items of information where NRAs reported either ‘not

know', 'not applicable' or simply an empty cell. The overall aim has to be a 100 per cent compliance in all those areas covered by the Regulation 1775/2005/EC.

- Secondly, where required, additional transparency requirements need to be defined and adopted to allow fair and non-discriminatory access to all types of natural gas infrastructure, not just transmission systems. This includes:
 - LNG facilities;
 - Storage facilities; and
 - Interconnectors.

The requirements for transparency in the future would result to:

1. the proposal of changes to annexed guidelines to Regulation 1775/2005/EC;
2. the proposal of changes to the Regulation 1775/2005/EC; and
3. Changes going beyond the current provisions of Regulation 1775/2005/EC.

On the basis of the results from this monitoring exercise, ERGEG therefore clearly recommends that Regulation 1775/2005/EC should be modified, in line with the comments made above.

This includes the abolition on the 3minus shipper rule, as outlined in ERGEG's transparency recommendations.

- Thirdly, monitoring potential additional transparency requirements, ie those aspects that are not covered at present by the Regulation 1775/2005/EC, but included in the explanatory notes by the EC. However, items included in such an exercise need to be clearly identified and ring-fenced in order to ensure that no burden is unduly placed neither on NRAs nor TSO in terms of their responsibility for completing the questionnaire and providing the information. This could include an impact assessment asking why such monitoring is required and how the findings will be used by the EC.
- Fourthly and finally, the findings from this monitoring report lead to the question whether national regulatory authorities have effective powers and sanction mechanisms in place to ensure the compliance and implementation of all regulatory requirements, not just transparency requirements. It is suggested that this issue needs to be addressed and could be part of a further monitoring exercise carried out by ERGEG.

ERGEG has already provided its comments on potential aspects in these three areas in a separate paper (ERGEG's transparency recommendations¹³) and submitted these recommendations as input to the so-called 3rd package to the EC.

¹³ See ERGEG's Recommendations for an amendment of the provisions made in Regulation 1775/2005/EC regarding transparency provisions (appendix 3 of paper 6 of the 3rd package: "Transparency requirement for electricity and gas - a coordinated approach, ref. C07-SER-13-06-6-PD, 5 June 2007).

http://www.ergreg.org/portal/page/portal/ERGEG_HOME/ERGEG_DOCS/ERGEG_DOCUMENTS_NEW/Energy%20documents

In addition, ERGEG is willing to provide further assistance to the European Commission with preparation of new regulation if and when required.

Annex 1 – Questionnaire cover note



Gas FG/TF TRA – Title - draft v01

Questionnaire to regulators

concerning

**the level of TSO's compliance with the transparency re-
quirements of the Gas Regulation 1775/2005/EC**

COVER NOTE TO REGULATORS

EREG
Gas Focus Group –TF TRA



Gas FG/TF TRA – Title - draft v01

Background

The new Gas Regulation 1775/2005 which comes into force on 1 July 2006 includes new requirements in relation to the publication and management of information by transmission system operators (TSOs). Previous monitoring results have shown significant differences in compliance between individual systems. It is obvious, however, that a single market requires necessary convergence of standards: it is crucial that the transparency requirements are adequately defined to ensure consistent implementation – the same information should be published in the same way by all TSOs across the EU. The Gas Regulation therefore calls for harmonized determination of transparency requirements. In order to allow for efficient application of the relevant Articles of the Gas Regulation there is a clear need for consistent implementation of the requirements within the Gas Regulation across all Member States including for pipes that cross borders.

Scope of the questionnaire

According to the Terms of Reference agreed by the Gas Focus Group the Task Force Transparency has to

- Assess the status quo of compliance with the transparency requirements of the Gas Regulation. This will be done by the present questionnaire addressed to regulatory authorities. The aim is to assess the status of compliance of TSOs with the transparency requirements of Regulation 1775/2005.
- Identify the need for possibly more detailed transparency requirements and/or modification of existing provisions of the Gas Regulation: relevant information will be collected within the ERGEG Gas Regional Initiative.

The analysis of the answers will be used for advice to the EC concerning the potential need for more detailed transparency requirements and/or modification of existing provisions of the Gas Regulation and presented to the 12th Madrid Forum.

The structure of the questionnaire will be based on the transparency requirements listed in Regulation 1775/2005 (see Annex) according to which TSOs are obliged to publish information on tariffs, third party access (TPA) services, principles of capacity allocation mechanisms (CAM) and congestion management procedures (CMP), technical aspects and capacities.



Gas FG/TF TRA – Title - draft v01

Note to the respondent

The questionnaire is addressed to national regulators who are kindly requested:

- to complete one questionnaire for their national TSOs; in case there is more than one TSO in a country, regulators are requested to provide answers for each TSO separately;
- base the answers on the status quo as of 1 July 2006 (date of the Gas Regulation's entry into force);
- to return the completed questionnaire to Mrs Nina Grall (nina.grall@e-control.at), copied to Mr Rafael Gonzalez (rafael.gonzalez@ceer-eu.org) by 15 Sept 2006.

Annex 2 – Questionnaire

EREG		EREG Gas Focus Group –TF TRA					Ref: Gas FG/TF TRA
	Requirement of the Gas Regulation	Yes	No	If NO please indicate expected date of compliance	If NO does the regulator have any legal competences to sanction non compliance (penalties)	Do not know	
1	General						
1.1	Name of TSO						
1.2	Annual volume of gas transported by the TSO (in Nm3)						
1.3	What is your assessment of the information systems and electronic communication means to provide adequate data to network users?						
	Do the systems require the use of passwords?						
	Do the systems require the use of cookies?						
	Is information easy to find using these systems?						
	Is service frequently interrupted?						
	Is information available in English?						
	Do any other factors negatively impact the systems' user-friendliness?			[please fill in your comments]			
1.4	Does the TSO separately charge network users for information requests associated with transportation contracts and carried out according to standard rules and procedures?						
1.5	If the TSO charges separately for information requests that require extraordinary or excessive expenses such as feasibility studies, are the charges duly substantiated?						
2	Tariffs						
2.1	Are all tariffs applicable to the system of the TSO, or the methodology used to calculate them, published prior to their entry into force?						
2.2	If yes, please specify who publishes the information						
	tariffs			[please indicate: regulator or TSO]			
	methodology to calculate tariffs			[please indicate: regulator or TSO]			
3	TPA services						
3.1	TSOs have to publish detailed and comprehensive information regarding the services they offer. Art 4 in combination with Annex 1 of the Regulation lists the minimum services which have to be offered by TSOs. Please specify for which of these services detailed information including a description of the service						
	firm transportation contracts						
	interruptible transportation contracts						
	long-term transportation contracts (i.e. contracts with a duration of more than one year: Art 1.1.14 Gas Regulation)						
	short-term transportation contracts (i.e. contracts with a duration of less than one year: Art 1.1.15 Gas Regulation)						
3.3	Does the TSO offer the following services online (online publication should be effected on the website of the TSO)						
	capacity booking						
	nomination and re-nomination procedures						
	transfer of capacity rights						
	information on the balancing status of network users						
3.4	Does the TSO publish a standard transportation contract ("standard transportation contract" meaning a sample contract to be signed by users)						
3.5	Does the TSO publish a network code ("network code" meaning rules on technical network operation on which the conclusion of a transportation contract is based)						
3.6	Does the TSO publish a standard conditions outlining rights and responsibilities for all network users ("standard conditions" meaning rules on commercial network operation on which the conclusion of a transportation contract is based)						
3.7	If there are any guarantees for creditworthiness asked by the TSO from its users, are the required guarantees published?						

EREG		EREG Gas Focus Group –TF TRA					Ref: Gas FG/TF TRA
	Requirement of the Gas Regulation	Yes	No	If NO please indicate expected date of compliance	If NO does the regulator have any legal competences to sanction non compliance (penalties)	Do not know	
4	Modifications to service conditions						
	Are planned maintenance periods published at least once a year by a predetermined deadline?						
4_1	If so, is such information provided to all network users (including potential, rather than only to existing users)?						
	Are changes to planned maintenance periods published?						
4_2	If so, is such information provided to all network users (including potential, rather than only to existing users)?						
	Are users notified of unplanned maintenance periods?						
4_3	If so, is such information provided to all network users (including potential, rather than only to existing users)?						
	During maintenance periods: does the TSO publish regularly updated information on the details of and expected duration and effect of the maintenance?						
4_4	If so, is such information provided to all network users (including potential, rather than only to existing users)?						
	Is a daily log of the actual maintenance and flow disruptions available on request?						
5	Capacity allocation/congestion management						
5_1	Does the TSO publish provisions on capacity allocation?						
5_2	Does the TSO publish provisions on congestion management?						
5_3	Does the TSO publish provisions on anti-hoarding procedures?						
5_4	Does the TSO publish provisions on re-utilisation procedures?						
6	Balancing						
6_1	If applicable, are flexibility and tolerance levels included in transportation and other services without separate charge public?						
6_2	Are the methodology and final tariffs for imbalance charges public?						
6_3	If there is a separate charge for flexibility and tolerance levels (not included in the transportation contract), is the charges for this service public?						
7	Technical information						
	TSOs have to publish at least certain information about their systems and services. Please specify if the following information is made available by the TSO						
	rules applicable for capacity trade on the secondary market vis-a-vis the TSO						
	description of the gas system of the TSO indicating all relevant points interconnecting its system with that of other TSOs and/or gas infrastructure such as LNG facilities and infrastructure necessary for providing ancillary services as defined by Article 2(14) of Directive 2003/55/EC						
	information on gas quality requirements						
	information on pressure requirements						

EREG		EREG Gas Focus Group –TF TRA					Ref: Gas FG/TF TRA
	Requirement of the Gas Regulation	Yes	No	If NO please indicate expected date of compliance	If NO does the regulator have any legal competences to sanction non compliance (penalties)	Do not know	
	rules applicable for connection of infrastructure to the system of the TSO						
	bulletin board for secondary market trading <small>(note: beyond the requirements of the Regulation)</small>						
8	Capacities						
8_1	Does the TSO publish for all relevant points including entry and exit points the maximum technical capacity	for daily periods?					
		on a numerical basis?					
		on a regular/rolling basis?					
		in a standardised manner?					
		online?					
	without charge?						
8_2	Does the TSO publish for all relevant points the maximum technical capacity for entering the system in counter flow	for daily periods?					
		on a numerical basis?					
		on a regular/rolling basis?					
		in a standardised manner?					
		online?					
	without charge?						
8_3	Does the TSO publish for all relevant points the maximum technical capacity for exiting the system in counter flow	for daily periods?					
		on a numerical basis?					
		on a regular/rolling basis?					
		in a standardised manner?					
		online?					
	without charge?						
8_4	Does the TSO publish for all relevant points the total contracted firm capacity	for daily periods?					
		on a numerical basis?					
		on a regular/rolling basis?					
		in a standardised manner?					
		online?					
	without charge?						
8_5	Does the TSO publish for all relevant points the total contracted interruptible capacity	for daily periods?					
		on a numerical basis?					
		on a regular/rolling basis?					
		in a standardised manner?					
		online?					
	without charge?						
8_6	Does the TSO publish for all relevant points the available firm capacity	for daily periods?					
		on a numerical basis?					
		on a regular/rolling basis?					
		in a standardised manner?					
		online?					
	without charge?						
8_7	Does the TSO publish online a forecast for at least 18 months ahead on available and contracted capacity?						
8_8	If yes, does the TSO update the forecast every month or more frequent when new information becomes available?						
8_9	Does the TSO publish online daily updates of available short-term services (day/week ahead)?						
8_10	Does the TSO publish online a long-term forecast of available capacities for up to 10 years?						
8_11	Does the TSO publish online historical maximum and minimum monthly capacity utilisation rates on a rolling basis?						
	If so, does the online publication of historical utilisation rates include a comparison between historically committed and historically used capacities? <small>(note: going beyond requirement of the Gas Regulation)</small>						

EREG		EREG Gas Focus Group –TF TRA					Ref: Gas FG/TF TRA	
	Requirement of the Gas Regulation	Yes	No	If NO please indicate expected date of compliance	If NO does the regulator have any legal competences to sanction non compliance (penalties)	Do not know		
8_12	Does the TSO publish online annual average flows for the past 3 years on a rolling basis?							
8_13	Do the relevant points include all of the points listed in Annex 3.2 of the Regulation?							
8_14	Are the relevant points approved by your regulatory authority?							
9	Exemptions							
	Does the TSO limit publication of information on the capacity situation for certain points of his system due to the Application of the "3 minus shipper rule" <small>(see Art. 6.5 of the Regulation)</small>							
9_1	if yes, does the TSO publish aggregated information on available capacities (e.g. traffic light system) without publishing numerical data expected to contravene confidentiality?							
	if yes, has the exemption been authorized by the regulatory authority?							
9_2	Does the TSO limit publication of information on the capacity situation for certain points of his system although there are more than 3 shippers?							
	if yes, has this been authorized by the regulatory authority?							
	if so, exceptions for [...] points out of a total of [...] points have been approved by the national authority	[please fill in: [x] out of [y] points]						
	if yes, what are the reasons for regulatory authorization?	[please fill in: [x] out of [y] points]						
9_3	Are there any legal provisions prohibiting the publication of confidential information?							
9_4	Are there any contractual provisions prohibiting the publication of confidential information?							
9_5	When applying the "3 minus shipper rule", Does the TSO include in the number of network users those on the secondary market?							
9_6	Does the TSO publish the number of users?							
10	Additional Information							
10_1	Does the TSO publish information which goes beyond the transparency requirements of the Regulation and which are requested by network users? if Yes, please specify	[please fill in your comments]						

Annex 3 – Methodology: Aggregation of findings by topic area

Overview: Questions included and scoring (Question/Score/Coding)

- Question set 1, question 1.3
Sub-question: “Is the information easy to find [...]” Compliance=“Yes” (numerical value: 1)
- Question set 2, question 2.1
Compliance=“Yes” (numerical value: 1)
- Question set 3, questions 3.1 to 3.7
Compliance=“Yes” (numerical value: 1)
- Question set 4, questions 4.1 to 4.4
(without nested parts, ie parts starting with “if so”)
Compliance=“Yes” (numerical value: 1)
- Question set 5, questions 5.1 to 5.5
Compliance=“Yes” (numerical value: 1)
- Question set 6, questions 6.1 to 6.3
Compliance=“Yes” (numerical value: 1)
- Question set 7, questions 7.1 to 7.5
Compliance=“Yes” (numerical value: 1)
- Comment: Question 7.6 beyond the scope of the regulation
- Question set 8, Questions 8.1 to 8.7, 8.9, 8.11
(without sub-questions), 8.12, 8.13
Compliance=“Yes” (numerical value: 1)
- Question set 9, questions 9.1, 9.2, 9.6 except sub-questions
Important: Inversion of coding: Compliance=“No” (numerical value: 1)
- Question set 10
Not included, beyond the scope of the Regulation 1775/2005/EC