Guidelines on CEER's Public Consultation Practices

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General Remarks

1. The Council of European Energy Regulators´ (CEER) public consultation guidelines recognise in particular:

    - the importance of consultation in providing expert input and views on draft proposals;
    - the need for a flexible approach to consultation (one that can be adapted according to the significance and urgency of an issue);
    - the principles of openness and transparency, consistency, and accountability;
    - the need for clear rule on confidentiality; and
    - the need to ensure a high quality to consultation including the use, when appropriate, of regulatory impact assessments.

2. In carrying out consultation CEER will be guided by a number of principles, several of which reflect the Union's approach to better regulation. Whenever adherence to these principles is not possible, an explanation will be given. The principles themselves will be reviewed after one year and regularly thereafter.

3. CEER's consultation will provide the basis for its policy recommendations. An EU-wide consultation may, however, be reinforced by national or regional consultation to ensure that any particular concern may be adequately explored and represented. Such consultation will not, however, replace the CEER's consultation nor will it be permitted to delay the timetables agreed for that consultation.

Principles of Consultation

4. On <u>whom</u> they consult, Regulators will, wherever appropriate:

    i) consult the full range of interested parties, including producers, network operators, suppliers and consumers as appropriate;
    ii) make consultation proposals widely known and available through all appropriate means but most particularly, the Internet;
    iii) consult at national, regional, European and international levels; and
    iv) make interested parties aware by appropriate means such as the web or email, when the CEER website has been updated.

5. On <u>when</u> they consult, Regulators will:

    i) publish forward annual work programmes to inform all interested parties of the planned consultations;
    ii) organise, upon request, informal discussions at an early stage with those most directly affected, recognising the limited resources that are available for this;
    iii) consult at a sufficiently early stage to take responses into account;
    iv) allow those consulted adequate time to respond, taking account of the complexity of the issue and any deadlines set. An eight weeks minimum period will normally be set for consultation. The maximum consultation period permitted will be four months in order to ensure that the process of policy formation is not unduly delayed.

6. On how they consult, Regulators will:

   i) provide an opportunity for interested parties to comment on proposals where the Regulators themselves initiate major new pieces of work or following a request for advice from the European Commission;
   ii) when necessary, indicate publicly their thinking on specific initiatives at various stages, (including the use of concept releases) to test preliminary analysis or thinking;
   iii) produce reasoned consultative proposals drafted as clearly and concisely as possible and indicating the objectives pursued. These proposals will be based on a thorough analysis of the issues including, where possible, any relevant economic analysis. Wherever possible, preliminary information on the impact of the proposals, in particular through impact assessments, will be provided;
   iv) will, whenever appropriate establish consultative working groups of experts, in addition to the present structure of working groups (see annex);
   v) use a variety of media, including public hearings/roundtables, reports and, most commonly, internet based consultation;
   vi) use appropriate processes in order better to target consultations at those who are most affected (this will include the use of bilateral discussions, as well as Florence and Madrid Regulatory Fora).

7. On how they respond to consultation, Regulators will:

   i) give appropriate consideration to all responses received;
   ii) make public all non confidential responses to formal consultations and the total number of all responses;
   iii) make public a summary of the responses received explaining: (a) the reasons why comments have or have not been taken on board in respect of major issues; (b) whether the CEER position is based on confidential information and why the relevant information cannot be disclosed;
   iv) if necessary, and where timescales permit, consult a second time if the response to the first consultation reveals significant problems, or where revised proposals are radically different from the original proposals on which consultation was based;
   v) publish and justify all formal proposals and advice, including advice to the European Commission.

8. On how they treat confidential information, Regulators will:

   i) list the names of all respondents (whether confidential or not) or, alternatively, make public the number (but not the names) of confidential responses received;
   ii) assess in co-ordination with respondents explicitly requesting confidentiality which information or data within their response shall not be made public in the summary of responses;
   iii) not link responses to specific respondents in the summary of responses;
   iv) carry out an evaluation of responses in a transparent way to all third parties without undermining their confidentiality rights as protected herein.

9. In respect of the Florence, Madrid and London Fora (as well as the Athens and Bucharest Fora), the Regulators:

   i) recognise the importance of these fora in the overall consultation process;

ii) will ensure that all relevant CEER documents are circulated adequately in advance of such meetings thereby allowing participants the opportunity to provide views on important proposals at the early stages of a consultation process and, when timetables permit, at a later stage before final recommendations are presented to the Commission; and
iii) encourage participants to provide regular assessments of developments in electricity and gas markets.

Review

i) The Regulators will review this consultation practice after one year and on a regular basis thereafter.