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## Opinion

### Title

**Impact Assessment on: Proposal to amend Chapter 3 "Definition of the technical information necessary for network users to gain effective access to the system, the definition of all relevant points for transparency requirements and the information to be published at all relevant points and the time schedule according to which this information shall be published", that is in the Annex of 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 network**

(draft version of 31 July 2009)

### Lead DG

DG TREN

## 1) Impact Assessment Board Opinion

### **(A) Context**

Directive 2003/55/EC ('gas directive') provides rules for the designation of system operators, unbundling of transmission system operators, access to networks, data confidentiality, and the powers of the national regulators. Regulation 1775/2005/EC ('gas regulation') provides more detailed rules for tariffs for network access, capacity allocation, transparency requirements, balancing rules and trading capacity rights. Amendments to both legal acts were tabled by the Commission in 2008 and are still under discussion in the Council and the Parliament. While these Commission proposals contain general provisions on providing information by gas operators, this initiative aims at setting out detailed rules that would increase gas market transparency.

### **(B) Positive aspects**

The IA report contains a good range of examples of how transparency of the gas markets in different countries (UK, US) is regulated. It also includes a clear overview of the regional gas initiatives and type of data currently available. The issue has been discussed extensively with stakeholders.

### **(C) Main recommendations for improvements**

*The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact*

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**General recommendation:** While the IA report in general provides a sound evidence base for an initiative in this area, the analysis needs to be strengthened on a number of points. These include: i) implementation of existing regimes, including voluntary ones, ii) subsidiarity with regard to domestic network operators, iii) design of policy options, iv) demonstration of benefits, and v) data confidentiality.

DG TREN agreed during the IAB meeting to update the IA report in line with these comments.

**(1) The IA report should analyse enforcement of the existing information obligations in more depth.** In the problem definition section, the IA report should describe what information is required now, by which authority, and how these provisions are being implemented. In this context, the report should also clarify what corrective actions (such as infringement procedures) have been taken by the Commission and what the result has been. The IA report should also analyse in more depth those cases where information provision is considered to be sufficient (e.g. the North West region) and identify the lessons to be drawn for any new initiative in this area.

**(2) The need to impose the same information obligations on all gas network operators, including purely domestic ones, needs to be underpinned by an analysis of subsidiarity.** The report should explain the role of purely domestic gas network operators in cross-border trading and why it is necessary to include them in the proposed measures. This analysis should be complemented with a brief explanation of how the gas market works in practice, what the role of the national gas regulators is with regard to the price setting, and what are consequences, for the policy measures in question, of a market which is populated by natural monopolies.

**(3) The design, content and analysis of the options require more discussion.** The IA report should distinguish clearly the need for harmonisation of information requirements from the mechanisms necessary to deliver the information. In terms of the range of information requirements covered, the report should explain the role of stakeholders and of the 'minimum list'. The report should also provide a fuller analysis of option 3 on market based instruments. When analysing impacts, the IA report should explain why a market and incentive based approach is not appropriate at European level given the overall aim of promoting competition on the gas market. It should also provide an analysis of how the preferred option would impact existing regimes which are more incentive-based, such as in the UK. The EU Standard Cost Model should be used for calculating the administrative burden of each option.

**(4) Benefits of providing more information to the market need to be made more visible.** While it may be difficult to distinguish these benefits from those that result from unbundling, the IA report should try to illustrate them by using examples of countries where markets had been liberalised prior to the introduction of more requirements on providing information. Since many of these benefits might be hard to quantify, a good qualitative analysis would suffice. Additionally, the IA report should better distinguish between immediate and longer term benefits, and include a discussion on employment impacts.

**(5) The IA report should clarify how concerns regarding data confidentiality have been addressed.** The report should analyse what data which is currently considered to be confidential will be made public as a result of implementation of the third liberalisation package, and what additional information obligations would be added by this initiative. The impact of disclosing more data should be analysed in a broad sense, i.e. including potential effects on down stream gas consumers.

#### **(D) Procedure and presentation**

All requirements have been met.

## 2) IAB scrutiny process

Reference number	(Comitology item)
Author DG	TREN
External expertise used	No
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