

CEER Legal Training Network Codes and Cross-Border Decisions 8-9 October 2015

DRAFT PROGRAMME

8 OCTOBER 2015
10:00 – 18:00
Day 1: Network Codes

- 10:00 -10:15** Opening remarks and roundtable introduction of the participants
- Nadia Horstmann | BNetzA, CEER LTF Chair

SESSION 1 Network Codes – where are we now?

This session explores the state of play, the adoption process and the modification and monitoring process for Network Codes. What lessons can be drawn from a legal perspective? What are the differences between Network Codes and Guidelines and their legal implications? What does this imply for the adoption of such Guidelines? Does the NC have to change its content materially and are there consequences affecting its legal value? While renaming the CACM as “Guidelines” could find a justification in its specific structure, what about the other NCs? Different views from different stakeholders involved in the process will be presented to give a comprehensive picture of how it works in practice.

With many NCs now being finalised, the next phases of implementation, monitoring and modification will come to the fore. ACER has issued initial guidance in this area.

- 10:15-12:00 From the planning group decision to a stand-alone NC – a long way**
What has been adopted? What will be adopted in the coming months?

The adoption process for Network Codes and Guidelines in practice?
How do Network Codes become binding law? Is the process working properly? What are the lessons learnt? (binding or non-binding Framework Guidelines / establishment of Network Codes by ENTSOs / role of ACER and the EC / Comitology procedure). What are the differences between Network Codes and Guidelines? What are the differences between Network Codes in Gas and Electricity? Do Network Codes meet the European expectation for a quick and efficient harmonisation of European Energy markets? What is the role of the European Commission in the process? What is the role of the MS in the Comitology process?

- **Jakub Fijalkowski** | E-Control
- **Jean-Baptiste Paquel** | ENTSO-E (Overview of NCs and the connection, market and operational NCs)
- **Jan Papsch** | Legal Officer, DG ENER, European Commission (Adoption of NCs, Comitology process)

Discussion/ Q&A

12:00-12:45 How does the modification and monitoring process for Network Codes work?

Amendments procedure of Network Codes (*Art. 7 Reg. EC/715/2009 / Reg. EC/714/2009*)

ACER's guidance on the evaluation procedure for Network Code amendment proposals - Periodic review process - Ad-hoc review process

- **Ernst Tremmel** | ACER
- **Benedikt Ennsner** | E-Control

Discussion/ Q&A

12:45-13:45 *Lunch break – CEER office*

SESSION 2 Implementation of Network Codes

This session addresses the legal challenges related to NC implementation and the set-up of new entities foreseen by Network Codes. The challenges in term of governance rules, cooperation between ENTSOs, TSOs, ACER and NRAs and lessons learnt will be illustrated through practical case studies. This session also explores the legal issues arising from the setting up of new entities under the Network Codes. Which regulatory rules are applicable to these new entities?

13:45-16:00 What are the challenges of implementing the NCs?

Once the NCs are adopted, what do NRAs, ENTSOs, TSOs, ACER still need to do? What are the governance rules for cooperation between these bodies? What are the challenges in adopting additional measures? What content and the legal nature for these additional measures? What are the instruments created to implement NCs? What role is there for stakeholders in implementing NCs? Ongoing electricity and gas initiatives will be presented for discussion.

- **Gillian Lorimer** | Ofgem
- **Marta Mendoza** | ENTSO-E
- **David Trebolle** | EDSO for Smart Grids
- **Nadine Haase** | Prisma

Discussion / Q&A

16:00-16:15 *Coffee break*

16:15-17:45 New entities and new responsibilities created by the Network Codes

New entities are or will be created according to the NCs. What are their tasks, competences and legal nature? Which regulatory rules are applicable to these entities (e.g. unbundling, competences of NRAs/ACER ...etc.)? What are the new responsibilities of existing entities such as TSOs?

- **Peter Willis** | Bird & Bird
- **Olaf Islei** | APX
- **Matthew Ramsden** | Ofgem

Discussion / Q&A

17:45-18:00 Wrap-up

- Nadia Horstmann | BNetzA, CEER LTF Chair

18:00-19:00 For those who wish to join, we will host a small drinks reception at the CEER office – all participants and lecturers welcome!

- END FIRST DAY -

9 OCTOBER 2015
09:00 – 16:00

Day 2: Cross-Border Decisions and Peer Review

SESSION 1 Cross-border decisions - A new European decision mechanism?

On which issues do NRAs have to cooperate under the 3rd Package and how? What if NRAs are obliged to adopt a so-called “joint decision” or “coordinated decision”? What are the legal differences and legal consequences of a “joint decision” and a “coordinated decision”? How can NRAs make such decisions legally binding on the addressees/TSOs and new entities? How can NRAs reach a common approach and where are the limits? Is there a role for ACER in supporting NRAs on these issues? (e.g. cross-border certification, cross-border cost allocation decision, exemption for cross-border infrastructures, etc.)

09:00-11:20 Cross-border joint and coordinated decisions – What are we talking about? What are the challenges?

- **Adrien de Hauteclocque** | European Court of Justice
- **Tarot Stephens** | ESMA
- **Andrea Baildon** | Ofgem
- **Claire Hellich-Praquin** | CRE

Discussion / Q&A

11:20-11:30 *Coffee break*

11:30-12:30 Case Study: ACER CBCA Decision “LITPOL Electricity”

- **Paulius Blazys** | NCC
- **Akos Hofstadter** | ACER

Discussion / Q&A

12:30-13:30 Case Study: North Sea Offshore Grid

- **Olivia Woolley** | Aberdeen School of Law

Discussion / Q&A

13:30-14:30 *Lunch break – CEER office*

SESSION 2 Peer Review

How is the process for peer reviews working? Is ACER involved as a mediator or as a decision-maker? What is ACER's power and/or "room for manoeuvre"? What is the nature of ACER's opinions? Is it possible to complain against an ACER opinion? If yes, which procedure is applicable? What are the consequences of ACER's opinion? Lessons learnt?

14:30-15:45 Peer Review

- **Paul Martinet** | ACER
- **Martin Sik** | ERU

Discussion / Q&A

15:45-16:00 Wrap-up

- **Nadia Horstmann** | BNetzA, CEER LTF Chair

- END SECOND DAY-