

**Eurogas Proposals for Amendments to the Third Energy Package
(Directive 2003/55/EC)**

Draft Proposal	EUROGAS Amendment
(3) However, at present, the right to sell gas in any Member State on equal terms and without discrimination or disadvantages cannot be guaranteed to any company in the Community. In particular, non-discriminatory network access and an equally effective level of regulatory supervision in each Member State do not yet exist, since the current legal framework is insufficient.	(3) However, at present, the right to sell gas in any Member State on equal terms and without discrimination or disadvantages cannot be guaranteed to any company in the Community. In particular, non-discriminatory network access and an equally effective level of regulatory supervision in each Member State do not yet exist, since the current legal framework is insufficient.
<i><u>Justification</u></i> <i>The Directive does not intend to guarantee the sale of gas on equal terms, otherwise there is no competition.</i>	

Draft Proposal	EUROGAS Amendment
(19) Energy regulators should have the power to issue binding decisions on gas undertakings and to impose effective, appropriate and dissuasive sanctions on natural gas undertakings which fail to comply with their obligations.	(19) Energy regulators should have the power to issue binding decisions on gas undertakings with the focus on regulated infrastructure business and to impose effective, appropriate and dissuasive sanctions on natural gas undertakings which fail to comply with their obligations.
<i><u>Justification</u></i> <i>This corresponds to the proposal in Articles 24b, 24c (1) and (2).</i>	
They must also be granted the powers to decide, irrespective of the application of competition rules, on any appropriate measures promoting effective competition necessary for the proper functioning of the market; as well as to ensure high standards of public service in compliance with market opening, the protection of vulnerable customers and that consumer protection measures are fully effective. These provisions should be without prejudice to both the Commission's powers concerning the application of competition rules including the examination of mergers with a Community dimension, and the rules on the internal market, such as the free movement of capital.	They must also be granted the powers to decide, irrespective of the application of competition rules, on any appropriate measures promoting monitor the level of market opening and competition, and in cooperation with competition authorities promote effective competition necessary for the proper functioning of the market; as well as to ensure high standards of public service in compliance with market opening, the protection of vulnerable customers and that consumer protection measures are fully effective. These provisions should be without prejudice to both the Commission's powers concerning the application of competition rules including the examination of mergers

	with a Community dimension, and the rules on the internal market, such as the free movement of capital.
<i>Justification</i>	
<i>This is the corresponding text in the explanatory memorandum (p.8).</i>	

<i>Recitals</i>	
Draft Proposal	EUROGAS Amendment
(21) The internal gas market is suffering from a lack of liquidity and transparency hindering the efficient allocation of resources, risk hedging and new entry. Trust in the market, its liquidity and the number of market participants need to increase, and therefore regulatory oversight over undertakings active in the supply of gas need to be increased. Such requirements should be without prejudice to, and compatible with, the existing Community legislation on financial markets. Energy Regulators and Financial Market Regulators need to cooperate in order to enable each other to have an overview of the markets concerned.	(21) The internal gas market is suffering from a lack of liquidity and transparency hindering the efficient allocation of resources, risk hedging and new entry. Trust in the market, its liquidity and the number of market participants need to increase, and therefore regulatory oversight over undertakings active in the supply of gas need to be increased. Such requirements should be without prejudice to, and compatible with, the existing Community legislation on financial markets. Energy Regulators and Financial Market Regulators need to cooperate in order to enable each other to have an overview of the markets concerned.
<i>Justification</i>	
<i>The proposal to increase regulatory oversight over undertakings active in the gas supply does not comply with the function of regulation which should ensure non discriminatory access to infrastructures, which are natural monopolies. This is not the case in the commodity business.</i>	

Draft Proposal	EUROGAS Amendment
(22) Prior to adoption by the Commission of guidelines defining further the record keeping requirements, the Agency for the Cooperation of Energy Regulators and the Committee of European Securities Regulators (CESR) should cooperate to investigate and advise the Commission on the content of the guidelines. The Agency and the Committee should also cooperate to further investigate and advise on the question whether transactions in gas supply contracts and gas derivatives should be subject to	(22) Prior to adoption by the Commission of guidelines defining further the record keeping requirements, the Agency for the Cooperation of Energy Regulators and the Committee of European Securities Regulators (CESR) should cooperate to investigate and advise the Commission on the content of the guidelines. The Agency and the Committee should also cooperate to further investigate and advise on the question whether transactions in gas supply contracts and gas derivatives should be subject to

pre and/or post-trade transparency requirements and if so what the content of those requirements should be.	pre and/or post-trade transparency requirements and if so what the content of those requirements should be.
<i>Justification</i> <i>This deletion corresponds to deletion in Article 24f.</i>	

(29) Directive 2003/55/EC provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.	(29) Directive 2003/55/EC provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. [Except for concrete implementation measures for infrastructure it is arguable, whether all of the topics which should be dealt with via comitology procedure from the Commission's point of view can be confined to "non-essential elements". Comitology procedure is exercised differently to the co-decision procedure. Democratic legitimacy should not be restricted. Therefore it is firstly necessary to define the topics and specific non-essential elements where the Commission can propose Guidelines via comitology at all.]
(30) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced a regulatory procedure with scrutiny for measures of general scope designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements	(30) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced a regulatory procedure with scrutiny for measures of general scope designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements
(31) In accordance with the joint statement of the European Parliament, the Council and the Commission on Decision 2006/512/EC, for this new	(31) In accordance with the joint statement of the European Parliament, the Council and the Commission on Decision 2006/512/EC, for this new

<p>procedure to be applicable to instruments adopted in accordance with the procedure laid down in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.</p>	<p>procedure to be applicable to instruments adopted in accordance with the procedure laid down in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.</p>
<p>(32) As regards Directive 2003/55/EC, power should be conferred on the Commission in particular to adopt the guidelines necessary for providing the minimum degree of harmonisation required to achieve the aim of this Directive. Since those measures are of general scope and are designed to supplement Directive 2003/55/EC by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.</p>	<p>(32) As regards Directive 2003/55/EC, power should be conferred on the Commission in particular to adopt the guidelines necessary for providing the minimum degree of harmonisation required to achieve the aim of this Directive. Since those measures are of general scope and are designed to supplement Directive 2003/55/EC by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.</p>

<i>Article 1- Amendments to Directive 2003/55/EC</i>	
Draft Proposal	EUROGAS Amendment
<p>Directive 2003/55/EC is amended as follows:</p> <p>(...)</p> <p>(2) In Article 3, the following paragraph 7 is added: 19 OJ L 145, 30.4.2004, p. 1. "7. The Commission may adopt guidelines for the implementation of this Article. This measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30 (3).</p>	<p>Directive 2003/55/EC is amended as follows:</p> <p>(...)</p> <p>(2) In Article 3, the following paragraph 7 is added: 19 OJ L 145, 30.4.2004, p. 1. "7. The Commission may adopt guidelines for the implementation of this Article. This measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30 (3).</p> <p>[Except for concrete implementation measures for infrastructure it is arguable, whether all of the topics which should be dealt with via comitology procedure from the Commission's point of view can be confined to "non-essential elements". Comitology procedure is exercised differently to the co-decision procedure. Democratic</p>

	legitimacy should not be restricted. Therefore it is firstly necessary to define the topics and specific non-essential elements where the Commission can propose Guidelines via comitology at all.]
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<i>Article 5a Regional solidarity</i>	
Draft Proposal	EUROGAS Amendment
1. In order to safeguard a secure supply on the internal market of natural gas, Member States shall cooperate in order to promote regional and bilateral solidarity.	1. In order to safeguard a secure supply on the internal market of natural gas, Member States shall cooperate in order to promote regional and bilateral solidarity.
2. This cooperation shall cover situations resulting or likely to result in the short term in a severe disruption of supply affecting a Member State. It shall include:	2. This cooperation shall cover situations resulting or likely to result in the short term in a severe disruption of supply affecting a Member State. It shall include:
(a) coordination of national emergency measures as mentioned by Article 8 of Directive 2004/67/EC;	(a) coordination of national emergency measures as mentioned by Article 8 of Directive 2004/67/EC;
(b) identification and, where necessary, development or upgrading of electricity and natural gas interconnections;	(b) identification and, where necessary, development or upgrading of electricity and natural gas interconnections;
(c) conditions and practical modalities for mutual assistance.	(c) conditions and practical modalities for mutual assistance.
3. The Commission shall be kept informed of this cooperation.	3. The Commission shall be kept informed of this cooperation.

<p>4. The Commission may adopt guidelines for regional solidarity cooperation. This measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30 (3).</p>	<p>4. The Commission may adopt guidelines for regional solidarity cooperation. This measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30 (3).</p> <p>[Except for concrete implementation measures for infrastructure it is arguable, whether all of the topics which should be dealt with via comitology procedure from the Commission's point of view can be confined to "non-essential elements". Comitology procedure is exercised differently to the co-decision procedure. Democratic legitimacy should not be restricted. Therefore it is firstly necessary to define the topics and specific non-essential elements where the Commission can propose Guidelines via comitology at all.]</p>
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<p><i>Article 5b</i> <i>Promotion of Regional Cooperation</i></p>	
<p>Draft Proposal</p>	<p>EUROGAS Amendment</p>
<p>Member States shall cooperate among themselves for the purpose of integrating their national markets at least at the regional level. In particular, Member States shall promote the cooperation of network operators at a regional level, and foster the consistency of their legal and regulatory framework. The geographical area covered by regional cooperations shall be in line with the definition of geographical areas by the Commission in accordance with Article 2h(3) of Regulation (EC) No1775/2005."</p>	<p>"Member States shall cooperate among themselves with each other for the purpose of integrating national markets at least at a regional level and removing all obstacles to regional progress. In particular, Member States shall promote the cooperation of network operators at regional level with regard to planning and to the operation of interconnector capacity and related infrastructures, promote the development of new system capacity of benefit to the internal European gas market, and foster the consistency of their legal and regulatory framework. The geographical covered by regional cooperations shall be in line with the definition of geographical areas by the Commission in accordance with Article 2h(3) of Regulation (EC) No1775/2005."</p>
<p><i>Justification</i> <i>The amendment will strengthen the progress to reach regional markets.</i></p>	

<i>Article 9a</i> <i>Unbundling of transmission system owner and storage system operator</i>	
Draft Proposal	EUROGAS Amendment
<p>(...)</p> <p>3. The Commission may adopt guidelines to ensure full and effective compliance of the transmission system owner and of the storage operator with paragraph 2 of this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3)."</p>	<p>(...)</p> <p>3. The Commission may adopt guidelines to ensure full and effective compliance of the transmission system owner and of the storage operator with paragraph 2 of this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3)."</p> <p>[Except for concrete implementation measures for infrastructure it is arguable, whether all of the topics which should be dealt with via comitology procedure from the Commission's point of view can be confined to "non-essential elements". Comitology procedure is exercised differently to the co-decision procedure. Democratic legitimacy should not be restricted. Therefore it is firstly necessary to define the topics and specific non-essential elements where the Commission can propose Guidelines via comitology at all.]</p>
<p>(10) Article 13 is amended as follows:</p> <p>(...)</p> <p>4. The Commission may adopt guidelines to ensure full and effective compliance of the distribution system operator with paragraph 2 as regards the full independence of the distribution system operator, the absence of discriminatory behaviour, and that supply activities of the vertically integrated undertaking cannot take unfair advantage of its vertical integration. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article</p>	<p>(10) Article 13 is amended as follows:</p> <p>(...)</p> <p>4. The Commission may adopt guidelines to ensure full and effective compliance of the distribution system operator with paragraph 2 as regards the full independence of the distribution system operator, the absence of discriminatory behaviour, and that supply activities of the vertically integrated undertaking cannot take unfair advantage of its vertical integration. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article</p>

30(3)."	30(3)." [Except for concrete implementation measures for infrastructure it is arguable, whether all of the topics which should be dealt with via comitology procedure from the Commission's point of view can be confined to "non-essential elements". Comitology procedure is exercised differently to the co-decision procedure. Democratic legitimacy should not be restricted. Therefore it is firstly necessary to define the topics and specific non-essential elements where the Commission can propose Guidelines via comitology at all.]
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<i>Article 22 New infrastructure</i>	
Draft Proposal	EUROGAS Amendment
<p>(13) Article 22 is replaced by the following:</p> <p>1. Major new gas infrastructures, i.e. interconnectors between Member States, LNG and storage facilities, may, upon request, be exempted, for a limited period of time, from the provisions of Articles 7, 18, 19, 20, and 24c(4), (5) and (6) under the following conditions:</p>	<p>(13) Article 22 is replaced by the following:</p> <p>1. Major new gas infrastructures, i.e. interconnectors between Member States, LNG and storage facilities, may, upon request, be exempted, for a limited period of time, from the provisions of Articles 7, 18, 19, 20, and 24c(4), (5) and (6) under the following conditions:</p>
(a) the investment must enhance competition in gas supply and enhance security of supply;	(a) the investment must enhance competition in gas supply and enhance security of supply;
(b) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;	(b) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;
(c) the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;	(c) the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
(d) charges are levied on users of that infrastructure;	(d) charges are levied on users of that infrastructure;
(e) the exemption is not detrimental to competition or the effective	(e) the exemption is not detrimental to competition or the effective

functioning of the internal gas market, or the efficient functioning of the regulated system to which the infrastructure is connected.	functioning of the internal gas market, or the efficient functioning of the regulated system to which the infrastructure is connected.
2. Paragraph 1 shall apply also to significant increases of capacity in existing infrastructures and to modifications of such infrastructures which enable the development of new sources of gas supply.	2. Paragraph 1 shall apply also to significant increases of capacity in existing infrastructures and to modifications of such infrastructures which enable the development of new sources of gas supply.

<i>Article 22</i> <i>New infrastructure</i>	
Draft Proposal	EUROGAS Amendment
3. The regulatory authority referred to in Chapter VIa may, on a case by case basis, decide on the exemptions referred to in paragraphs 1 and 2. Where the infrastructure in question is located in the territory of more than one Member State, the Agency shall exercise the tasks conferred on the regulatory authority by the present Article.	3. The regulatory authority referred to in Chapter VIa may, on a case by case basis, decide on the exemptions referred to in paragraphs 1 and 2. Where the infrastructure in question is located in the territory of more than one Member State, the Agency shall exercise the tasks conferred on the regulatory authority by the present Article.
An exemption may cover all or part of, the capacity of the new infrastructure, or of the existing infrastructure with significantly increased capacity.	An exemption may cover all or part of, the capacity of the new infrastructure, or of the existing infrastructure with significantly increased capacity.
In deciding to grant an exemption consideration shall be given, on a case by case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions account shall, in particular, be taken of the additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.	In deciding to grant an exemption consideration shall be given, on a case by case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions account shall, in particular, be taken of the additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.
Before granting an exemption the regulatory authority shall decide upon the rules and mechanisms for management and allocation of capacity.	Before granting an exemption the regulatory authority shall decide upon the rules and mechanisms for management and allocation of capacity. The regulatory authority shall conduct a public consultation involving among others potential system users on the exemption request,

	presently not provided for.
<i>Justification</i>	
<i>As presently worded, there is no apparent involvement of users in the exemption process and the process lacks clarity. This additional wording will ensure adequate involvement of system users and other stakeholders, and enhance the transparency of the process.</i>	

<i>Article 22</i> <i>New infrastructure</i>	
Draft Proposal	EUROGAS Amendment
The rules shall require that all potential users of the infrastructure are invited to indicate their interest in contracting capacity before capacity allocation in the new infrastructure, including for own use, takes place. The regulatory authority shall require congestion management rules to include the obligation to offer unused capacity on the market, and shall require users of the facility to be entitled to trade their contracted capacities on the secondary market. In its assessment of the criteria referred to in paragraph 1 (a), (b) and (e) of this Article, the regulatory authority shall take into account the results of that capacity allocation procedure. The exemption decision, including any conditions referred to in the second subparagraph, shall be duly reasoned and published.	The rules shall require that all potential users of the infrastructure are invited to indicate their interest in contracting capacity before capacity allocation in the new infrastructure, including for own use, takes place. The regulatory authority shall require congestion management rules to include the obligation to offer unused capacity on the market on an interruptible basis , and shall require users of the facility to be entitled to trade their contracted capacities on the secondary market. In its assessment of the criteria referred to in paragraph 1(a), (b) and (e) of this Article, the regulatory authority shall take into account the results of that capacity allocation procedure. The exemption decision, including any conditions referred to in the second subparagraph, shall be duly reasoned and published.
<i>Justification</i>	
<i>The present wording referring to an obligation to offer unused capacity on the market allows for the possibility that the obligation could refer to a firm or interruptible UIOLI. This wording clarifies that the UIOLI obligation should not go beyond that required in the amended Regulation.</i>	

<i>Article 22</i> <i>New infrastructure</i>	
Draft Proposal	EUROGAS Amendment
4. The regulatory authority shall transmit to the Commission without delay a copy of every request for exemption as of its receipt. The decision shall be notified, without delay, by the competent authority to the Commission, together with all the relevant information with respect to the decision. This information may be submitted to the Commission in aggregate form, enabling the Commission to reach a	4. The regulatory authority shall transmit to the Commission without delay a copy of every request for exemption as of its receipt. The decision shall be notified, without delay, by the competent authority to the Commission, together with all the relevant information with respect to the decision. This information may be submitted to the Commission in aggregate form, enabling the Commission to reach a

<p>well-founded decision. In particular, the information shall contain:</p> <p>(a) the detailed reasons on the basis of which the regulatory authority granted the exemption, including the financial information justifying the need for the exemption;</p>	<p>well-founded decision. In particular, the information shall contain:</p> <p>(a) the detailed reasons on the basis of which the regulatory authority granted or refused the exemption from each specific article, including the financial information justifying the need for the exemption;</p>
<p><u>Justification</u></p> <p><i>An NRA should be required to explain the reasons for refusal, not only for granting of an exemption. Explanation in relation to specific articles and not only to exemption in general will add clarity to the NRA's submitted reasoning.</i></p>	

<p><i>Article 22</i></p> <p><i>New infrastructure</i></p>	
Draft Proposal	EUROGAS Amendment
(b) the analysis undertaken of the effect on competition and the effective functioning of the internal gas market resulting from the grant of the exemption;	(b) the analysis undertaken of the effect on competition and the effective functioning of the internal gas market resulting from the grant of the exemption;
(c) the reasons for the time period and the share of the total capacity of the gas infrastructure in question for which the exemption is granted;	(c) the reasons for the time period and the share of the total capacity of the gas infrastructure in question for which the exemption is granted;
(d) in case the exemption relates to an interconnector, the result of the consultation with the regulatory authorities concerned;	(d) in case the exemption relates to an interconnector, the result of the consultation with the regulatory authorities concerned;
(e) the contribution of the infrastructure to the diversification of gas supply.	(e) the contribution of the infrastructure to the diversification of gas supply.
	<p>Article 22.4 – new “f”</p> <p>The rules for management of capacity that have been established.</p>
<p><u>Justification</u></p> <p><i>This requirement gives additional clarity to NRAs' tasks.</i></p>	

<p><i>Article 22</i></p> <p><i>New infrastructure</i></p>	
Draft Proposal	EUROGAS Amendment
5. Within two months after receiving a notification, the Commission may take a decision requiring the regulatory authority to amend or	5. Within two months after receiving a notification, the Commission may take a decision requiring the regulatory authority to amend or

<p>withdraw the decision to grant an exemption. That period shall begin on the day following the receipt of the notification. The two month period may be extended by two additional months where additional information is sought by the Commission. That period shall begin on the day following the receipt of the complete additional information. The two month period can also be extended with the consent of both the Commission and the regulatory authority. Where the requested information is not provided within the period set out in the request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period has been extended with the consent of both the Commission and the regulatory authority, or the regulatory authority, in a duly reasoned statement, has informed the Commission that it considers the notification to be complete. The regulatory authority shall comply with the Commission decision to amend or withdraw the exemption decision within a period of four weeks and shall inform the Commission accordingly.</p>	<p>withdraw the decision to grant or refuse an exemption. That period shall begin on the day following the receipt of the notification. The two month period may be extended by two additional months where additional information is sought by the Commission. That period shall begin on the day following the receipt of the complete additional information. The two month period can also be extended with the consent of both the Commission and the regulatory authority. Where the requested information is not provided within the period set out in the request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period has been extended with the consent of both the Commission and the regulatory authority, or the regulatory authority, in a duly reasoned statement, has informed the Commission that it considers the notification to be complete. The regulatory authority shall comply with the Commission decision to amend or withdraw the exemption decision within a period of four weeks and shall inform the Commission accordingly.</p>
<p style="text-align: center;"><u>Justification</u></p> <p><i>An NRA should be required to explain the reasons for refusal, not only for granting of an exemption.</i></p>	

<p style="text-align: center;"><i>Article 22 New infrastructure</i></p>	
<p style="text-align: center;">Draft Proposal</p> <p>The Commission shall preserve the confidentiality of commercially sensitive information. The Commission's approval of an exemption decision shall lose its effect after two years from its adoption if construction of the infrastructure has not yet started, and after five years if the infrastructure has not become operational.</p>	<p style="text-align: center;">EUROGAS Amendment</p> <p>The Commission shall preserve the confidentiality of commercially sensitive information. The Commission's approval of an exemption decision shall lose its effect after two years from its adoption if construction of the infrastructure has not yet started, and after five years if the infrastructure has not become operational. While a limit may be established to the effect of an exemption decision, to be determined on a case by case basis, there shall be a clear and robust procedure of</p>

	appeal to prevent approvals lapsing automatically.
<i>Justification</i>	
<p><i>The suggested timescales would be tight and impractical for many projects, especially given the planning/permitting delays sometimes encountered by large projects. If limits to the effect of a decision are set, they should be arrived at on a case by case basis. There should, in any case, not be an automatic suspension of any exemptions but always the possibility of an appeal.</i></p>	

<i>Article 22</i> <i>New infrastructure</i>	
Draft Proposal	EUROGAS Amendment
<p>6. The Commission may adopt guidelines for the application of the conditions mentioned in paragraph 1 and to set out the procedure to be followed for the application of paragraphs 4 and 5. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30 (3)."</p>	<p>6. The Commission may adopt guidelines for the application of the conditions mentioned in paragraph 1 and to set out the procedure to be followed for the application of paragraphs 4 and 5. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30 (3)."</p> <p>[Except for concrete implementation measures for infrastructure it is arguable, whether all of the topics which should be dealt with via comitology procedure from the Commission's point of view can be confined to "non-essential elements". Comitology procedure is exercised differently to the co-decision procedure. Democratic legitimacy should not be restricted. Therefore it is firstly necessary to define the topics and specific non-essential elements where the Commission can propose Guidelines via comitology at all.]</p>

<i>Article 24b</i> <i>Policy objectives of the regulatory authority</i>	
Draft Proposal	EUROGAS Amendment
<p>In carrying out the regulatory tasks specified in this Directive, the regulatory authority shall take all reasonable measures to achieve the following objectives:</p> <p>(a) the promotion, in close cooperation with the Agency, regulatory</p>	<p>In carrying out the regulatory tasks specified in this Directive, the regulatory authority shall take all reasonable measures with the focus on regulated infrastructure business to achieve the following objectives:</p> <p>(a) the promotion, in close cooperation with the Agency, regulatory</p>

<p>authorities of other Member States and the Commission, of a competitive, secure and environmentally sustainable internal gas market within the Community, and effective market opening for all consumers and suppliers in the Community;</p>	<p>authorities of other Member States and the Commission, of a competitive, secure and environmentally sustainable internal gas market within the Community, and effective market opening for all consumers and suppliers in the Community;</p>
<p>(b) the development of competitive and properly functioning regional markets within the Community in view of the achievement of the objective mentioned in point (a);</p>	<p>(b) the development of competitive and properly functioning regional markets within the Community in view of the achievement of the objective mentioned in point (a);</p>
<p>(c) the suppression of restrictions to natural gas trade between Member States, including the development of appropriate cross border transmission capacities to meet demand, enhance integration of national markets and to enable unrestrained natural gas flow across the Community;</p>	<p>(c) the suppression of restrictions to natural gas trade between Member States, including the development of appropriate cross border transmission capacities to meet demand, enhance integration of national markets and to enable unrestrained natural gas flow across the Community;</p>
<p>(d) ensuring the development of secure, reliable and efficient systems, promoting energy efficiency, system adequacy and research and innovation to meet demand and the development of innovative renewable and low carbon technologies, in both short and long term;</p>	<p>(d) ensuring the development of secure, reliable and efficient systems, promoting energy efficiency, system adequacy and research and innovation to meet demand and the development of innovative renewable and low carbon technologies, in both short and long term;</p>
<p>(e) ensuring that network operators are granted adequate incentives, in both the short and the long term, to increase efficiencies in network performance and foster market integration;</p>	<p>(e) ensuring that network operators are granted adequate incentives, in both the short and the long term, to increase efficiencies in network performance and foster market integration;</p>
<p>(f) ensuring the efficient functioning of their national market, and to promote effective competition in cooperation with competition authorities.</p>	<p>(f) ensuring the efficient functioning of their national market, and to promote effective competition in cooperation with competition authorities.</p>
<p style="text-align: center;"><u>Justification</u></p> <p><i>The change within the first sentence clarifies that energy regulators shall take measures only with a focus on regulated infrastructures and that they are not responsible for taking measures with regard to market and competition issues. National and European competition authorities should keep end-responsibility in competition matters.</i></p>	

<i>Article 24c</i> <i>Duties and powers of the regulatory authority</i>	
Draft Proposal	EUROGAS Amendment
<p>1. The regulatory authority shall have the following duties:</p> <p>(a) ensuring compliance of transmission and distribution system operators, and where relevant system owners, as well as of any natural gas undertakings, with their obligations under this Directive and other relevant Community legislation, including as regards cross border issues;</p>	<p>1. The regulatory authority shall have the following duties with the focus on regulated infrastructure business:</p> <p>(a) ensuring compliance of transmission and distribution system operators, and where relevant system owners, as well as of any natural gas undertakings, with their obligations under this Directive and other relevant Community legislation, including as regards cross border issues;</p>
<p>(b) cooperating on cross-border issues with the regulatory authority or authorities of those Member States;</p>	<p>(b) cooperation on cross-border issues with the regulatory authority or authorities of other Member States, including the exchange of appropriate necessary information.</p>
<p>(c) complying with, and implementing, decisions of the Agency and of the Commission;</p>	<p>(c) complying with, and implementing, decisions of the Agency and of the Commission;</p>
<p>(d) reporting on a yearly basis on its activity and the fulfillment of its duties to the relevant authorities of the Member States, the Agency and the Commission.</p>	<p>(d) reporting on a yearly basis on its activity and the fulfillment of its duties to the relevant authorities of the Member States, the Agency and the Commission.</p>
<p>This report shall cover the steps taken and the results obtained as regards each of the tasks listed in this Article;</p>	<p>This report shall cover the steps taken and the results obtained as regards each of the tasks listed in this Article;</p>
<p>(e) ensuring that there are no cross subsidies between transmission, distribution, storage, LNG and supply activities;</p>	<p>(e) ensuring that there are no cross subsidies between transmission, distribution, storage, LNG and supply activities;</p>
<p>(f) reviewing investment plans of the transmission system operators, and providing in its annual report an assessment of the investment plan of the transmission system operators as regards its consistency with the European wide 10-year network development plan mentioned in Article 2c of Regulation (EC) No 1775/2005;</p>	<p>(f) reviewing investment plans of the transmission system operators, and providing in its annual report an assessment of the investment plan of the transmission system operators as regards its consistency with the European wide 10-year network development plan mentioned in Article 2c of Regulation (EC) No 1775/2005;</p>
<p>(g) monitoring network security and reliability, and reviewing network</p>	<p>(g) monitoring network security and reliability, and reviewing network</p>

security and reliability rules;	security and reliability rules;
(h) monitoring the level of transparency, ensuring compliance of natural gas undertakings with transparency obligations;	(h) monitoring the level of transparency, ensuring compliance of natural gas undertakings with transparency obligations;
(i) monitoring the level of market opening and competition at wholesale and retail levels, including on natural gas exchanges, household prices, switching rates, disconnection rates and household complaints in an agreed format, as well as any distortion or restriction of competition in cooperation with competition authorities, including providing any relevant information, bringing any relevant cases to the attention of the relevant competition authorities;	(i) monitoring the level of market opening and competition at wholesale and retail levels, including on natural gas exchanges, household prices, switching rates, disconnection rates and household complaints in an agreed format, as well as any distortion or restriction of competition in cooperation with competition authorities, including providing any relevant information, bringing any relevant cases to the attention of the relevant competition authorities;
(j) monitoring the time taken by transmission and distribution undertakings to make connections and repairs;	(j) monitoring the time taken by transmission and distribution undertakings to make connections and repairs;
(k) monitoring and reviewing the access conditions to storage, linepack and other ancillary services as provided for in Article 19;	(k) monitoring and reviewing the access conditions to storage, linepack and other ancillary services as provided for in Article 19;
(l) without prejudice to the competence of other national regulatory authorities, ensuring high standards of public service for natural gas, the protection of vulnerable customers, and that consumer protection measures set out in Annex A are effective;	(l) without prejudice to the competence of other national regulatory authorities, ensuring high standards of public service for natural gas, the protection of vulnerable customers, and that consumer protection measures set out in Annex A are effective;
(m) publishing recommendations, at least on a yearly basis, on compliance of supply tariffs with Article 3;	(m) publishing recommendations, at least on a yearly basis, on compliance of supply tariffs with Article 3;
(n) ensuring access to customer consumption data, the application of a harmonized format for consumption data and the access to data under paragraph (h) of Annex A;	(n) ensuring access to customer consumption data, the application of a harmonized format for consumption data and the access to data under paragraph (h) of Annex A;
(o) monitoring the implementation of rules relating to the roles and responsibilities of transmission system operators, distribution	(o) monitoring the implementation of rules relating to the roles and responsibilities of transmission system operators, distribution

system operators, suppliers and customers and other market parties pursuant to Article 8b of Regulation (EC) No 1775/2005;	system operators, suppliers and customers and other market parties pursuant to Article 8b of Regulation (EC) No 1775/2005;
(p) monitoring the correct application of the criteria that determine whether a storage facility falls under Article 19(3) or 19(4).	(p) monitoring the correct application of the criteria that determine whether a storage facility falls under Article 19(3) or 19(4).
2. In addition to the tasks conferred upon it under paragraph 1, when an independent system operator has been designated under Article 9, the regulatory authority shall:	2. In addition to the tasks conferred upon it under paragraph 1, when an independent system operator has been designated under Article 9, the regulatory authority shall:
(a) monitor the transmission system owner's and the independent system operator's compliance with their obligations under this Article, and issue penalties for non compliance in accordance with paragraph 3(d);	(a) monitor the transmission system owner's and the independent system operator's compliance with their obligations under this Article, and issue penalties for non compliance in accordance with paragraph 3(d);
(b) monitor the relations and communications between the independent system operator and the transmission system owner so as to ensure compliance of the independent system operator with its obligations, and in particular shall approve contracts and act as a dispute settlement authority between the independent system operator and the transmission system owner in respect of any complaint submitted by either party pursuant to paragraph 7;	(b) monitor the relations and communications between the independent system operator and the transmission system owner so as to ensure compliance of the independent system operator with its obligations, and in particular shall approve contracts and act as a dispute settlement authority between the independent system operator and the transmission system owner in respect of any complaint submitted by either party pursuant to paragraph 7;
(c) without prejudice to the procedure under paragraph 2c of Article 9, for the first ten year network development plan, approve the investments planning and the multi-annual network development plan presented on a yearly basis by the independent system operator;	(c) without prejudice to the procedure under paragraph 2c of Article 9, for the first ten year network development plan, approve the investments planning and the multi-annual network development plan presented on a yearly basis by the independent system operator;
(d) ensure that network access tariffs collected by independent system operators include a remuneration for the network owner or network owners that provide for an adequate remuneration of the network assets and of any new investments therein;	(d) ensure that network access tariffs collected by independent system operators include a remuneration for the network owner or network owners that provide for an adequate remuneration of the network assets and of any new investments therein;

(e) have the powers to carry out inspections at the transmission system owner and independent system operator's premises.	(e) have the powers to carry out inspections at the transmission system owner and independent system operator's premises.
<u>Justification</u>	
<p><i>The change within the first sentence clarifies that energy regulators shall take measures only with a focus on regulated infrastructures and that they are not responsible for taking measures with regard to market and competition issues. National and European competition authorities should keep end-responsibility in competition matters.</i></p>	

<i>Article 24c</i>	
<i>Duties and powers of the regulatory authority</i>	
Draft Proposal	EUROGAS Amendment
3. Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties referred to in paragraph 1 and 2 in an efficient and expeditious manner. For this purpose, the regulatory authority shall have at least the following powers:	3. Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties referred to in paragraph 1 and 2 in an efficient and expeditious manner with the focus on regulated infrastructure business . For this purpose, the regulatory authority shall have at least the following powers:
(a) to issue binding decisions on gas undertakings;	(a) to issue binding decisions on gas undertakings;
(b) to carry out in cooperation with the national competition authority investigations of the functioning of gas markets, and to decide, in the absence of violations of competition rules,, of any appropriate measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market, including gas release programs;	(b) to assist carry out in cooperation with the national competition authority in their monitoring investigations of the functioning of gas markets, and to propose to the competent authorities decide, in the absence of violations of competition rules, of any appropriate measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market, including gas release programs;

Justification

In the absence of a clear policy framework for competition, the Commission's proposal would lead to granting regulatory authorities an unrestricted and unpredictable power of intervention into the market, overlapping with existing competencies of national authorities in the field of competition (Member States or competition authorities). Also, depending on the way it is implemented by regulators, it may lead to high discrepancies between member states.

“National energy regulators should analyse conditions in their respective markets in co-operation with competition authorities and make appropriate proposals” (cf § 61 COM (2006) 851 final “Inquiry pursuant to

Article 17 of Regulation (EC) No 1/2003 into the European gas and electricity sectors Final Report).

<i>Article 24c</i> <i>Duties and powers of the regulatory authority</i>	
Draft Proposal	EUROGAS Amendment
(c) to request any information from natural gas undertakings relevant for the fulfillment of its tasks;	(c) to request any information from natural gas undertakings relevant necessary for the fulfillment of its tasks;
<i>Justification</i> <i>The expression necessary is more clear, in order to underline that requested information have to be proportionate for the fulfilment of regulatory tasks.</i>	

<i>Article 24c</i> <i>Duties and powers of the regulatory authority</i>	
Draft Proposal	EUROGAS Amendment
12. Decisions taken by regulatory authorities shall be motivated.	12. Decisions taken by regulatory authorities shall be motivated without prejudice to confidential data of respective parties publicly justified, proportionate and necessary, with due account taken of the views of market participants, existing contractual obligations, as well as the expected costs and benefits of the decision.
<i>Justification</i> <i>It is essential in a competitive market that confidential data are protected. There has to be a balance between transparency and confidentiality needs.</i>	

<i>Article 24c</i> <i>Duties and powers of the regulatory authority</i>	
Draft Proposal	EUROGAS Amendment
13. Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a body independent of the parties involved.	13. Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a body independent of the parties involved.
14. The Commission may adopt guidelines on the implementation by the regulatory authorities of the powers described in this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3)"	14. The Commission may adopt guidelines on the implementation by the regulatory authorities of the powers described in this Article. This measure designed to amend non-essential elements of infrastructure of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to

	<p>in Article 30(3)"</p> <p>[Except for concrete implementation measures for infrastructure it is arguable, whether all of the topics which should be dealt with via comitology procedure from the Commission's point of view can be confined to "non-essential elements". Comitology procedure is exercised differently to the co-decision procedure. Democratic legitimacy should not be restricted. Therefore it is firstly necessary to define the topics and specific non-essential elements where the Commission can propose Guidelines via comitology at all.]</p>
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<p style="text-align: center;"><i>Article 24d</i> <i>Regulatory regime for cross border issues</i></p>	
<p style="text-align: center;">Draft Proposal</p>	<p style="text-align: center;">EUROGAS Amendment</p>
<p>1. Regulatory authorities shall closely cooperate and consult with each other, and shall provide each other and the Agency with any information necessary for the fulfillment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that required of the originating authority.</p>	<p>1. Regulatory authorities shall closely cooperate and consult with each other, and shall provide each other and the Agency with any information necessary for the fulfillment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that required of the originating authority.</p>
<p>2. Regulatory authorities shall cooperate at least on a regional level to foster the creation of operational arrangements in order to ensure an optimal management of the network, develop joint gas exchanges and the allocation of cross-border capacity, and to ensure a minimum level of interconnection capacity within the region to allow for effective competition to develop.</p>	<p>2. Regulatory authorities shall cooperate at least on a regional level to foster the creation of operational arrangements in order to ensure an optimal, management of the network, development of technical infrastructure and network access rules that facilitate the development of regional gas hubs joint gas exchanges and a non-discriminatory allocation of cross-border capacity, and to ensure a minimum the necessary level of interconnection capacity within the region to allow the effective competition to develop.</p>
<p>3. The Agency shall decide upon the</p>	<p>3. The Agency shall decide upon the</p>

<p>regulatory regime for infrastructure connecting at least two Member States:</p> <p>(a) upon a joint request from the competent national regulatory authorities,</p> <p>or,</p>	<p>regulatory regime for an interconnector and related infrastructures infrastructure connecting at least two Member States:</p> <p>(a) upon a joint request from the competent national regulatory authorities,</p> <p>or,</p>
<p>(b) where the competent national regulatory authorities have not been able to reach an agreement on the appropriate regulatory regime within six months from the date the file was brought before the last of these regulatory authorities.</p>	<p>(b) where the competent national regulatory authorities have not been able to reach an agreement on the appropriate regulatory regime within six months from the date the file was brought before the last of these regulatory authorities.</p>
<p>4. The Commission may adopt guidelines on the extent of the duties of the regulatory authorities to cooperate with each other and with the Agency, and on the situations in which the Agency becomes competent to decide upon the regulatory regime for infrastructures connecting at least two Member States. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).</p>	<p>4. The Commission may adopt guidelines on the extent of the duties of the regulatory authorities to cooperate with each other and with the Agency, and on the situations in which the Agency becomes competent to decide upon the regulatory regime for interconnectors and related infrastructures infrastructures connecting at least two Member States. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).</p> <p>[Except for concrete implementation measures for infrastructure it is arguable, whether all of the topics which should be dealt with via comitology procedure from the Commission's point of view can be confined to "non-essential elements". Comitology procedure is exercised differently to the co-decision procedure. Democratic legitimacy should not be restricted. Therefore it is firstly necessary to define the topics and specific non-essential elements where the Commission can propose Guidelines via comitology at all.]</p>
<p style="text-align: center;"><u>Justification</u></p> <p><i>The amendment in Article 24c (2) introduces a clearer terminology and elaborates on hub development needs.</i></p>	

Article 24e
Compliance with Guidelines

Draft Proposal	EUROGAS Amendment
1. Any regulatory authority and the Commission may request the opinion of the Agency on the compliance of a decision taken by a regulatory authority with guidelines referred to in this Directive or in Regulation (EC) No 1775/2005.	1. Any regulatory authority, a party that has established a sufficient legal and/or economic interest in compliance with the relevant Guideline or Regulation and the Commission may request the opinion of the Agency on the compliance of a decision taken by a regulatory authority with guidelines referred to in this Directive or in Regulation (EC) No 1775/2005.
2. The Agency shall provide its opinion to the regulatory authority which has requested it or to the Commission, respectively, and to the regulatory authority which has taken the decision in question within four months.	2. The Agency shall provide its opinion to the regulatory authority which has requested it or to the party that has established sufficient legal and/or economic interest or to the Commission , respectively, and to the regulatory authority which has taken the decision in question within four months.
3. Where the regulatory authority which has taken the decision does not comply with the Agency's opinion within four months from the date of receipt, the Agency shall inform the Commission.	3. Where the regulatory authority which has taken the decision does not comply with the Agency's opinion within four months from the date of receipt, the Agency shall inform the Commission or party that has established sufficient legal and/or economic interest.
4. Any regulatory authority may inform the Commission where it considers that a decision taken by a regulatory authority does not comply with guidelines referred to in this Directive or in Regulation (EC) No 1775/2005 within two months from the date of that decision.	4. Any regulatory authority including the Agency or party that has established sufficient legal and/or economic interest may inform the Commission where it considers that a decision taken by any other a regulatory authority does not comply with guidelines referred to in this Directive or in Regulation (EC) No 1775/2005 within two months from the date of that decision.
5. Where the Commission, within two months after having been informed by the Agency in accordance with paragraph 3 or by a regulatory authority in accordance with paragraph 4, or on its own initiative within three months from the date of the decision finds that the decision of a regulatory authority raises serious doubts as to its	5. Where the Commission, within two months after having been informed by the Agency in accordance with paragraph 3 or by a regulatory authority in accordance with paragraph 4, or party that has established sufficient legal and/or economic interest or on its own initiative within three months from the date of the

<p>compatibility with guidelines referred to in this Directive or in Regulation (EC) No1775/2005, the Commission may decide to initiate proceedings. In such a case, it shall invite the regulatory authority and the parties to the proceedings before the regulatory authority to submit comments.</p>	<p>decision finds that the decision of a regulatory authority raises serious doubts as to its compatibility with guidelines referred to in this Directive or in Regulation (EC) No1775/2005, the Commission may decide to initiate proceedings. In such a case, it shall invite the regulatory authority and the parties to the proceedings before the regulatory authority to submit comments.</p>
<p>6. Where the Commission has decided to initiate proceedings, it shall, within not more than four months of the date of such decision, issue a final decision:</p> <p>(a) not to raise objections against the decision of the regulatory authority; or</p>	<p>6. Where the Commission has decided to initiate proceedings, it shall, within not more than four months of the date of such decision, issue a final decision:</p> <p>(a) not to raise objections against the decision of the regulatory authority; or</p>
<p>(b) requiring the regulatory authority concerned to amend or withdraw its decision if it considers that guidelines have not been complied with.</p>	<p>(b) requiring the regulatory authority concerned to amend or withdraw its decision if it considers that guidelines have not been complied with.</p>
<p>7. Where the Commission has not taken a decision to initiate proceedings or a final decision within the time-limits set in paragraphs 5 and 6 respectively, it shall be deemed not to have raised objections against the decision of the regulatory authority.</p>	<p>7. Where the Commission has not taken a decision to initiate proceedings or a final decision within the time-limits set in paragraphs 5 and 6 respectively, it shall be deemed not to have raised objections against the decision of the regulatory authority.</p>
<p>8. The regulatory authority shall comply with the Commission decision to amend or withdraw their decision within a period of two months and shall inform the Commission accordingly.</p>	<p>8. The regulatory authority shall comply with the Commission decision to amend or withdraw their decision within a period of two months and shall inform the Commission accordingly.</p>
<p>9. The Commission shall adopt guidelines setting out the details of the procedure to be followed for the application of this Article. This measure designed to amend nonessential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).</p>	<p>9. The Commission shall adopt guidelines setting out the details of the procedure to be followed for the application of this Article. This measure designed to amend nonessential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).</p> <p>[Except for concrete implement-</p>

	<p>tation measures for infrastructure it is arguable, whether all of the topics which should be dealt with via comitology procedure from the Commission's point of view can be confined to "non-essential elements". Comitology procedure is exercised differently to the co-decision procedure. Democratic legitimacy should not be restricted. Therefore it is firstly necessary to define the topics and specific non-essential elements where the Commission can propose Guidelines via comitology at all.]</p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>The amendment enhances the opportunity to involve concerned market parties in the decision making process of regulatory authorities.</i></p>	

<p style="text-align: center;"><i>Article 24f</i> <i>Record keeping</i></p>	
<p style="text-align: center;">Draft Proposal</p>	<p style="text-align: center;">EUROGAS Amendment</p>
<p>1. Member States shall require supply undertakings to keep at the disposal of the national regulatory authority, the national competition authority and the Commission, for at least five years, the relevant data relating to all transactions in gas supply contracts and gas derivatives with wholesale customers and transmission system operators as well as storage and LNG operators.</p>	<p>1. Member States shall require supply undertakings to keep at the disposal of the competent authorities, for the fulfillment of their tasks, national regulatory authority, the national competition authority and the Commission, for at least five years, the relevant data relating to all transactions in gas supply contracts and gas derivatives with wholesale customers and transmission system operators as well as storage and LNG operators.</p>
<p>2. The data shall include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled gas supply contracts and gas derivatives.</p>	<p>2. The data shall include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled gas supply contracts and gas derivatives.</p>
<p>3. The regulatory authority may decide to make available to market participants elements of this information provided that commercially sensitive information on individual market players or individual transactions is not</p>	<p>3. The regulatory authority may decide to make available to market participants elements of this information provided that commercially sensitive information on individual market players or individual transactions is not</p>

released. This paragraph shall not apply to information about financial instruments which fall within the scope of Directive 2004/39/EC.	released. This paragraph shall not apply to information about financial instruments which fall within the scope of Directive 2004/39/EC.
4. To ensure the uniform application of this Article, the Commission may adopt guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that shall be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).	4. To ensure the uniform application of this Article, the Commission may adopt guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that shall be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).
5. With respect to transactions in gas derivatives of supply undertakings with wholesale customers and transmission system operators as well as storage and LNG operators, this Article shall only apply once the Commission has adopted the guidelines referred to in paragraph 4.	5. With respect to transactions in gas derivatives of supply undertakings with wholesale customers and transmission system operators as well as storage and LNG operators, this Article shall only apply once the Commission has adopted the guidelines referred to in paragraph 4.
6. The provisions of this Article shall not create additional obligations vis-à-vis the authorities mentioned in paragraph 1 for entities falling within the scope of Directive 2004/39/EC.	6. The provisions of this Article shall not create additional obligations vis-à-vis the authorities mentioned in paragraph 1 for entities falling within the scope of Directive 2004/39/EC.
7. In case the authorities mentioned in paragraph 1 need access to data kept by entities falling within the scope of Directive 2004/39/EC, the authorities responsible under that Directive shall provide the authorities mentioned in paragraph 1 with the required data.	7. In case the authorities mentioned in paragraph 1 need access to data kept by entities falling within the scope of Directive 2004/39/EC, the authorities responsible under that Directive shall provide the authorities mentioned in paragraph 1 with the required data.
(15) Article 25 is deleted.	(15) Article 25 is deleted.
<u>Justification</u>	
<i>With regard to the required record keeping a parallel jurisdiction of the national regulatory authority and the national competition authority and the Commission (see Article 24f (1)) should be avoided.</i>	
<i>Art. 24f (3) requires deletion, because it is not possible to publish data which are in the case of gas supply contracts commercially sensitive. In addition to that the non application of record keeping rules within the scope of the Financial Service Directive 2004/39/EC would lead to discrimination between different kinds of commercial business transactions within the field of gas supply. Moreover, aspects in relation to Financial Service Directive 2004/39/EC are now discussed</i>	

by CESR and ERGEG and it is premature to anticipate the outcome of this discussion.

<i>Annex A (h)</i>	
Draft Proposal	EUROGAS Amendment
(17) In Annex A, the following paragraphs shall be added: "(h) have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any undertaking with a supply license access to its metering data.	...[...] be readily able to move to a new supplier. Where the switching process requires supply point information, metering data or a standard consumption profile, Member States shall ensure that this is available, free of charge, to any undertaking authorised to have access to such data.
<i>Justification</i>	
<i>Amendment focuses on ensuring all data necessary for the switching process is directly available to the new supplier, rather than requiring systems to give the customer such data.</i>	

Draft Proposal	EUROGAS Amendment
The party responsible for data management is obliged to give these data to the undertaking.	The party responsible for data management is obliged to give these data to the undertaking.

Draft Proposal	EUROGAS Amendment
Member States shall define a format for the data and a procedure for suppliers and consumers to have access to the data.	Member States shall ensure there is an agreed format for the data and a procedure for suppliers and where necessary consumers to have access to the data.
<i>Justification</i>	
<i>Member States are often not directly responsible for the definition of data formats; where they are, they are dependent on industry advice.</i>	

Draft Proposal	EUROGAS Amendment
No additional costs can be charged to the consumer for this service.	No explicit additional charge to the consumer shall be made for this particular service.
<i>Justification</i>	
<i>In a competitive market, any additional costs will ultimately flow through to customers' bills. Textual change is to clarify intention.</i>	

<i>Annex A (i)</i>	
Draft Proposal	EUROGAS Amendment
(i) shall be properly informed every month of actual gas consumption and costs. No additional costs can be charged to the consumer for this service.	...shall be informed of their actual gas consumption and costs frequently enough to enable them to regulate their consumption.

Justification

The proposed requirement for customers to be informed every month is unnecessarily prescriptive and likely to be disproportionate given the high costs of metering solutions.

Moreover the area is already covered by Art. 13 of the Energy Services Directive. The wording should be more closely aligned with ESD (as in the proposed amendment) to avoid overlapping/conflicting requirements in this area, or the provision should be deleted on the grounds of duplication.

*If this amendment is not adopted and (i) still includes a requirement for monthly information, the '**in so far as is financially reasonable**' should be added.*

In a competitive market, any additional costs will ultimately flow through to customers' bills. Textual change is to clarify intention.

Annex A (j)

Draft Proposal	EUROGAS Amendment
(j) can change supplier at any time in the year, and a customer's account with the previous supplier shall not be settled later than one month following the last supply by this previous supplier."	...can change supplier at any time in the year, and a customer's account with the previous supplier shall be submitted no later than two months following the last supply by the previous supplier.

Justification

The requirement should be relaxed to recognise the old supplier's dependence for the closing meter reading on the distribution company/new supplier and on industry processes.

Alternatively, and preferably, (j) could be deleted completely, and the point covered by a `best practice proposition`. The national regulator can then introduce measures on the timely issuing of bills, which would be able to take account of particular national circumstances, in particular related to switching systems.