

ACER External Communication Guidelines

The Agency for the Cooperation of Energy Regulators (the Agency) is increasingly playing a key role in the creation of a well-functioning Internal Energy Market. Beyond the regulatory remit assigned to the Agency by the Third Package, additional tasks in the area of wholesale market monitoring were entrusted to the Agency by Regulation (EU) No 1227/2011 (REMIT).

Given its prominent role in the regulatory developments in the energy sector, it is appropriate that the Agency maintains an open external communication strategy, to inform the widest range of stakeholders on its activities. This strategy should go beyond the statutory requirements for consultations contained in the relevant Regulations.

In this respect, external communication at all levels should be encouraged. However, it is essential that:

- This communication provides consistent messages;
- The content of the communication reflects the official position of the Agency and does not adversely affect the image or reputation of the Agency;
- Caution is maintained while the official position of the Agency on specific issues is formed.

This note provides a proposal, for the consideration by the Administrative Board and the Board of Regulators, for guidelines on external communication, which are aimed at achieving the objectives defined above in the most effective way. It would be appropriate if these guidelines, once agreed, were to be implemented in each Board through their respective Rules of Procedures.

These guidelines are based on the following considerations:

- According to article 17(1) of Regulation (EC) No 713/2009, “the Director shall be responsible for representing the Agency”;
- According to article 15(5) of Regulation (EC) No 713/2009, “the European Parliament may invite, while fully respecting his independence, the chairman of the Board of Regulators or his deputy to make a statement before its competent committee and answer questions put by the members of that committee”. Similarly, according to article 16(8) of the same Regulation “the European Parliament may [...] invite the Director to make a statement before its competent committee and answer questions put by the members of that committee”;
- It is useful and valuable that the Director more generally shares the external communication effort with members of the Boards and other members of the staff

of the Agency as appropriate, so that the Agency's messages reach a wider audience at all levels;

- It is at the same time paramount that the messages provided as part of the Agency's external communication activities are fully consistent and reflect the official position of the Agency, thus avoiding generating confusion or, even worse, negatively impacting on the image or reputation of the Agency.

Therefore, the following guidelines on the external communication activities of the Agency are proposed:

- 1) The external communication actions of the Agency are undertaken by the Director, by the members of the Administrative Board, of the Board of Regulators and of the Board of Appeal, by the members of the staff of the Agency and, in specific areas, by the Chairs and members of the Agency's Working Groups, Task Forces and Work Streams.
- 2) Members of the Administrative Board and of the Board of Regulators participate in the external communication actions of the Agency in the areas of competence of their respective Boards.
- 3) Agency's staff members are involved in the external communication actions on the basis of a general or specific mandate from the Director. The Press and Communication Officer has a general mandate to propose and, once approved by the Director, to implement the external communication strategy of the Agency, to coordinate the external communication action of other staff members and to provide support to Boards' members where required. Heads of the Agency's Departments have a general mandate regarding the external communication actions in their respective areas of competence, but may assign a specific mandate to members of their departments.
- 4) Chairs and members of the Agency's Working Groups, Task Forces and Work Streams are involved in the external communication actions on the basis of a general or specific mandate from the Director. Whereas the Chairs have a general mandate in their respective areas of competence, they also may give a specific mandate to members of the Working Groups, Task Forces or Work Streams (e.g., for presentations at the Florence, London and Madrid Fora).
- 5) The content of the external communication activities should reflect the official position of the Agency. The official position of the Agency is defined by the acts –

Decisions, Opinions and Recommendations – and other documents adopted or otherwise published by the Agency. Draft acts which have received the favourable opinion of the Board of Regulators, pursuant to article 15(1) of Regulation (EC) No 713/2009, do not contribute to forming the official position of the Agency until they are adopted according to article 17(3) of the same Regulation. Presentations given by the Director, Agency’s staff members, Working Group Chairs and Working Group, Task Forces or Work Streams members on Agency topics, when the circumstances so require, may reflect the “working” position of the Agency, rather than its official position as defined above. When the presentation is delivered by Working Group, Task Forces or Work Stream members it should be submitted for prior endorsement to the respective Working Group Chair.

- 6) In case of doubt on the official position of the Agency, the Director shall be consulted. The Press and Communication Officer is also available to provide support whenever appropriate. In order to provide full transparency and consistence on the Agency’s official position, a repository of all presentations given by or on behalf of the Agency shall also be established, and shall be made accessible to all Board members, Agency staff and Working Group, Task Force and Work Stream members.
- 7) The delivery of the Agency’s external communication shall avoid any prejudice to the image or reputation of the Agency.
- 8) In specific circumstances, the Director, Board Members, Chairs of the Agency’s Working Groups and Head of Departments at the Agency may express their personal views in external communication, provided that:
 - a. The context is such that expression of personal opinions is expected (e.g. academic events);
 - b. It is clearly stated that what is expressed represents personal views and does not necessarily reflect the position of the Agency or of any of its Bodies. Such a statement should be delivered, depending on the context and circumstances, in a way which leaves no room for ambiguity;
 - c. The personal views expressed are not in contrast with the official position of the Agency;
 - d. The personal views expressed should not discredit or otherwise damage the image and reputation of the Agency, of any of its bodies or of its staff;
 - e. Particular care should be taken in avoiding any actual, potential or perceived conflict of interest in respect to the personal views expressed.

- 9) These guidelines are without prejudice to the possibility for members of the Administrative Board and of the Board of Regulators of registering their dissenting opinion according to respective Rules of Procedures.