



Harmonisation of Licensing Regimes

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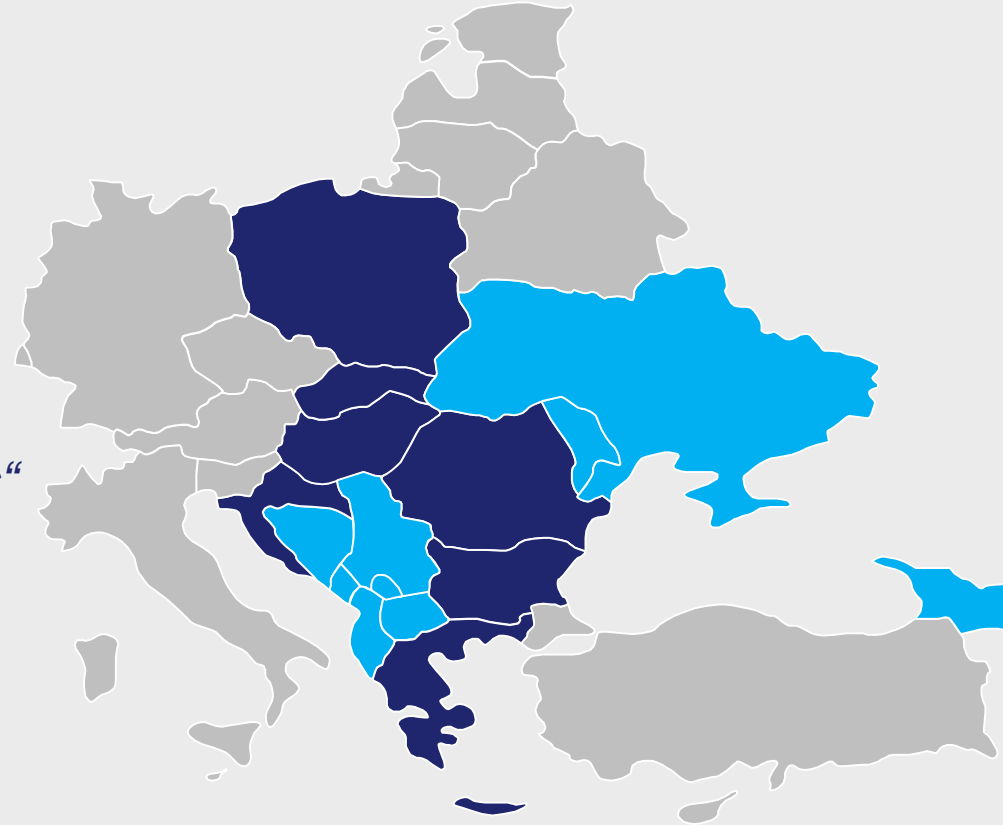
Proposing measures for

- harmonisation of licensing regimes
- supply to wholesale (trade) and final (retail) customers
- gas and electricity

Geographic scope - „Title III countries“

■ EU Member States

■ EnC Contracting Parties



1. **Foster** trade, market integration and customer choice
 - abolish unnecessary financial and administrative burden
2. **Maintain necessary regulatory objectives**
 - financial viability of undertakings
 - market oversight and supervision, including enforcement
 - customer protection
3. **Ensure regulatory financing** – but not necessarily linked to licenses
4. **No new obligations** in countries where a license is currently not required
5. *EnC Contracting Parties specific* – taxation and local seat requirements

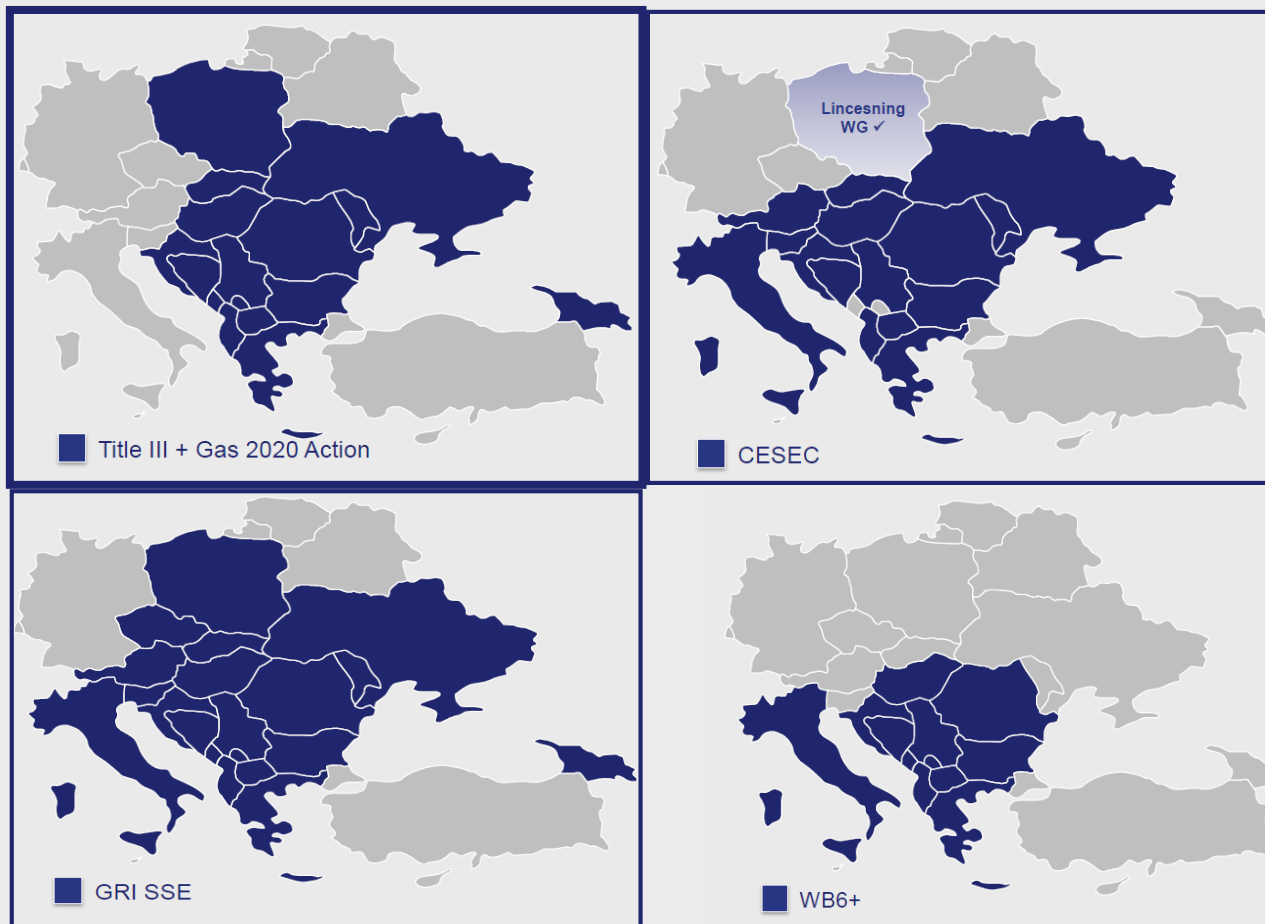
*EFET, CEER, GRI SSE et al:
licenses hampering creation of
liquid trade, in particular when
complemented by burdensome
administrative requirements*

Driving question:



- are licenses the most appropriate tool?; or
- can other instruments serve the purpose equally good **or even better** while creating less barriers to competition?

Context	Objective	Instruments
TEP	establish liquid gas and electricity wholesale and retail markets	 remove obstacles / minimise financial and administrative burden preventing new market entrants (trade and supply) from engaging
	ensure access for all customers to supplier of choice	
CESEC _G	ease licensing requirements → establish mutually recognizable license/registration [CESEC Action Plan 2.1]	 create a CESEC WG to [Conclusions CESEC HLG 2017] <ul style="list-style-type: none"> ○ develop specific regional rules to overcome barriers in the CESEC gas and electricity markets ○ investigate the application of Title III
Gas 2020 Action _{EnC}	enable gas market integration in the Title III countries	 mutual recognition of trade and retail supply licenses
GRI SSE _{ACER}	foster liquid gas wholesale markets	 harmonisation of wholesale licenses in gas [GRI SSE proposal 2017]
WB6	create a trading region SSE _{WB6} CPs+neighbouring EU MS	 explore opportunities for cooperation [...] under Title III [WB6 Trieste Summit conclusions 2017]

Common Geographic Scope



Proposal in Detail₁: Objectives → Concrete Measures

Objective	Alternatives to licenses?	Proposed measures
<p>Ensuring financial viability of undertakings to ensure protection of market participants / customers</p>	<p>Wholesale supply ^[trade]: more efficiently addressed by market → contracts between traders, with TSOs / MOs, balancing rules</p> 	<ul style="list-style-type: none"> ○ No license requirement ○ Possible: register [incl fee for actual costs incurred] ○ No local seat requirement ○ Traders to comply with the legislation where the trade takes place
	<p>Retail supply: certain checks viable (customer protection)</p> 	<ul style="list-style-type: none"> ○ Mutual recognition <ul style="list-style-type: none"> ○ Based on common minimum requirements ○ Host NRA to recognise based on home NRA's confirmation ○ No local seat requirement for undertakings established in another Title III country ○ No new license requirements where not existing now ○ Customer protection: NRAs to approve supply GTC ○ Retail suppliers to comply with the legislation where the supply takes place

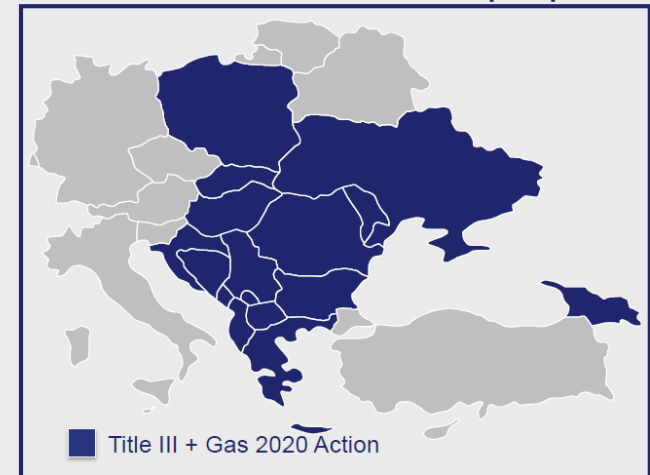
Proposal in Detail₂: Objectives → Concrete Measures

Objective	Alternatives to licenses?	Proposed measures
<p>NRA financing [alternatively or complementary]</p> <p>NRA enforcement powers</p>	<p>Consultation input!</p>	<p>[alternatively or complementary]</p> <ul style="list-style-type: none"> ○ Regulatory fee ○ Allocation to some licensees only (exl trade) ○ One-off registration fee
Taxation	Decouple from license holding	<p>linked to market activity_{example REMIT}</p>
Recognition of judgments, decisions and financial penalties	<i>Contracting Parties specific</i>	<ul style="list-style-type: none"> ○ Trade - taxable at the place where the supplier has its seat ○ Retail supply – taxable at the place of delivery [→ taxable person requirement]
	<i>Contracting Parties specific</i>	<p>Mutual recognition of judgments, decisions and financial penalties imposed by judicial or administrative authorities</p>

- Workshop 09/2017, Vienna – NRAs of Contracting Parties, HU, AT, Baltic
- CESEC 04/12/2017
- Consultation until 12 January 2017 – input received from
 - Ministries: GR, HR, UA, AT
 - NRAs: GR, HR, MD
 - EFET
- Telco 28/02/2018 – NRAs AT, HU, GR, HR, RO, BG, MK
- Brussels, 13/03/2018

- Trade
 - Need for regulatory enforcement powers RAE, HERA, ANRE(MD), GR → ✓
strengthened
 - Need for financing of regulators RAE, HERA → ✓ strengthened:
 1. Collection from *all* licensees (excl traders) – e.g. ME
 2. Collection from *some* licensees (excl traders) – e.g. SR
 3. De-coupe from licensees („regulatory fee“) – e.g. IT, AT, UAIn any case: one-off „registration fee“ possible – e.g. HR, SR, AL, MK, GR now one-off „licensing fee“
 - Need for financial viability check [x]
- Supply
 - Need for common set of criteria → ✓
 - Need for legal adjustments

- Proposal discussed with NRAs EnC WS, GRI SSE
- Proposal would require legislative changes → CESEC WG discussions on Ministry level
- **(Possible) way forward under Title III:**
 1. Ministerial Decision
 - Article 82: The Ministerial Council [...] take Measures under Title III on a proposal from a Party or the Secretariat
 - Article 26, 27: Measures are applicable to →
 2. Transposition into national legislation
 - Licensing requirements
 - Regulatory powers and financing
 - [Taxation | recognition of judgments
 3. Adaptation of national regulatory rules





Thank you very much
for your attention!

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Background slides

Article 34 EnC Treaty: *“The Energy Community may take Measures concerning compatibility of market designs for the operation of Network Energy markets, as well as **mutual recognition of licenses** and Measures fostering free establishment of Network Energy companies.”*

Article 41(1) EnC Treaty: *“Customs duties and quantitative restrictions on the import and export of Network Energy **and all measures having equivalent effect**, shall be prohibited between the Parties. This prohibition shall also apply to **customs duties of a fiscal nature**.*

Article 3(4) of Directive 2009/72/EC and Article 3(5) of Directive 2009/73/EC : *“Contracting Parties [Member States] shall ensure that all customers are entitled to have their electricity provided by a supplier, subject to the supplier’s agreement, **regardless of the Contracting Parties [Member States] in which the supplier is registered, as long as the supplier follows the applicable trading and balancing rules**. In this regard, Contracting Parties [Member States] shall take all measures necessary to ensure that **administrative procedures do not discriminate** against supply undertakings already registered in another Contracting Parties [Member States].”*