



## **Safeguarding Regulatory Independence**

**Andrew Ebrill, Secretary General, CEER**

**VI CEER-ARIAE Meeting  
20 April 2017, Panama**

# Agenda

- Reasons for Regulatory Independence
- Results of CEER Survey of European NRAs
- Key Recommendations



# Why Independence?

- Protects the interests of energy consumers in a more competitive market environment
- Predictable and stable climate for investors
  - ▶ Energy players not unfairly discriminated against, including where the State owns a market participant
  - ▶ Provides confidence for long-term investments
- Not always a clear-cut issue



# CEER 2016 Report on European NRAs



Powers

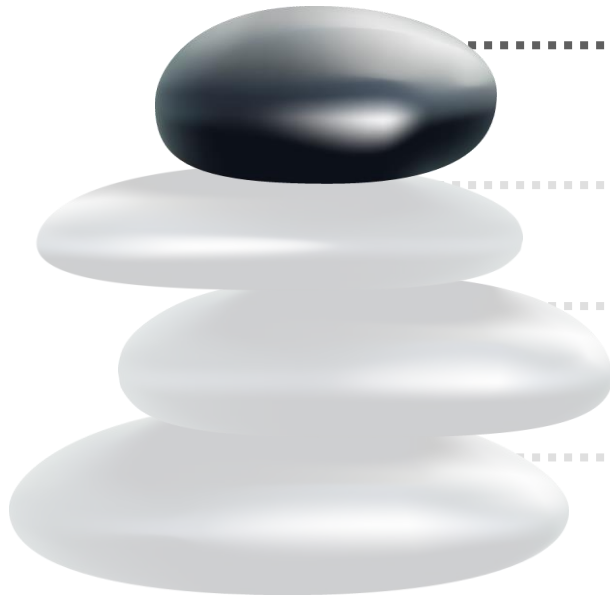
Resources

Independence

Accountability and Transparency



## NRA Powers



Powers

Core functions similar

Resources

Local implementation varies

Independence

One key concern

Accountability and transparency



## NRA Powers

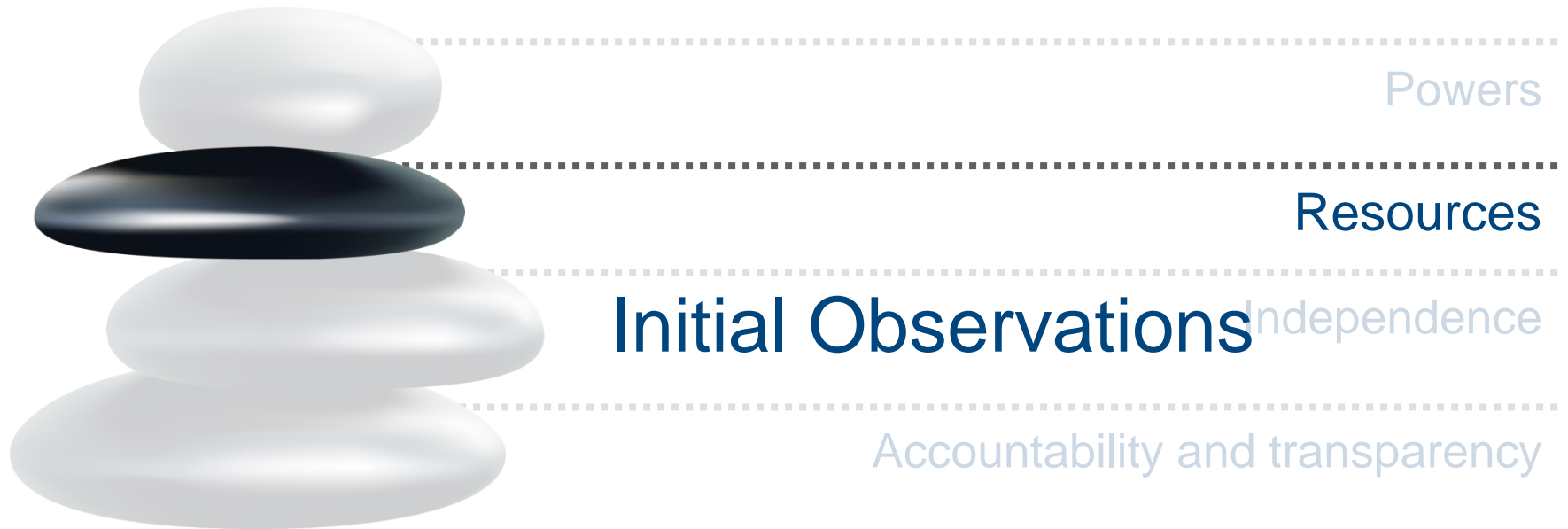
- Concern: In 5 of 29 countries, NRA decisions are subject to ministry approval or can be overturned by the ministry

### Recommendation

- Full implementation of the 3rd Package, including the power to issue final and binding decisions



# How can NRAs' resources be compared?



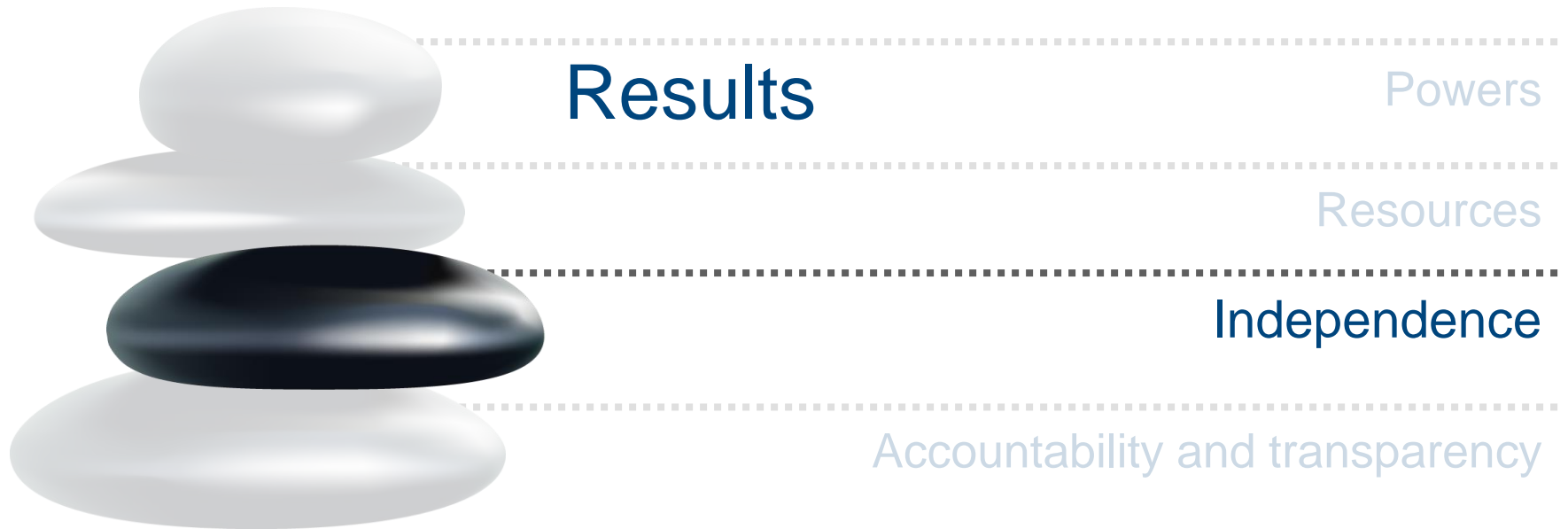
## NRA Resources

- Cross-country comparison of NRA resources is not easy
- Circa half of resources on networks, 29% to markets and 21% to consumer work
- 78% resources in national issues, 22% on international work
- For energy NRAs, 62% of resources on electricity and 38% on gas





# NRA Independence



## NRA Independence

- Independence is not always clearly defined in the law
- NRAs in 5/29 countries can still receive external instructions on regulatory decisions
- In 11/29 countries, the NRA requires governmental approval of the budget or the government can cap the regulatory fee
- In various countries there are other restrictions, e.g. headcount caps, pay rates



# Recommendations

## Clarity

- The law should include a small definition of what independence means. Conflicting rules should be avoided.

## Good Practice

- A code of conduct can help staff and can be used towards the outside

## Exits

- A change in the NRA's structure should not be a ground for dismissal of the head/board

## Financing

- Autonomy at all stages of the budgeting process

## Use

- No restrictions on NRAs' budget use



## How accountable and transparent are NRAs?



Often more than is prescribed

Powers

Resources

Independence

Accountability and transparency



# NRA Accountability and Transparency

- Most NRAs' financials are subject to ex-post control. In some cases, this is done by the ministry
- The large majority of NRAs have clear consultation policies in place, while not all of them publish them.

## Audit

- Ex-post control of NRAs' finances should be done by an independent body, e.g. the court of auditors

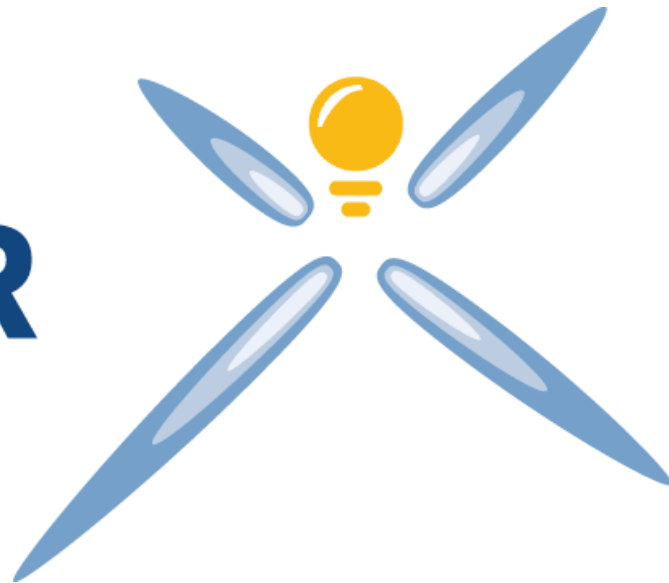
## Policy

- NRAs' consultation policy should be made transparent



# **CEER**

**Council of European  
Energy Regulators**



**[www.ceer.eu](http://www.ceer.eu)**