

# Energy Regulatory Office

## The issue of TSO in Kosovo Regulatory implications

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# Kosovo's international obligations

## *ECSEE Treaty*

### **CHAPTER I – GEOGRAPHIC SCOPE**

#### *Article 9*

The provisions of and the Measures taken under this Title shall apply to the territories of the Adhering Parties, and to the territory under the jurisdiction of the United Nations Interim Administration Mission in Kosovo.

### **CHAPTER II – THE ACQUIS ON ENERGY**

#### *Article 10*

Each Contracting Party shall implement the “acquis communautaire” on energy in compliance with the timetable for the implementation of those measures set out in Annex I.



## The “Acquis Communautaire” on Energy

- (i) the European Community **Directive 2003/54/EC** of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity;
- (ii) the European Community **Directive 2003/55/EC** of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas;
- (iii) the European Community **Regulation 1228/2003/EC** of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity.

# Timetable

## ANNEX I

### TIMETABLE FOR THE IMPLEMENTATION OF THE EC DIRECTIVES N° 2003/54 AND 2003/55, AND THE EC REGULATION N° 1228/2003, OF 26 JUNE 2003

- 1. Subject to paragraph 2 below and Article 24 of this Treaty, each Contracting Party shall implement within **twelve months** of the entry into force of this Treaty: **Signing Sept 2005 – ratification March 2006 = March 2007**
- 2. Each Contracting Party must ensure that the eligible customers within the meaning of the European Community Directives 2003/54/EC and 2003/55/EC are:
  - (i) from 1 January 2008, all non-household customers; and
  - (ii) from 1 January 2015, all customers.

#### *Article 24* - COMPLIANCE WITH GENERALLY APPLICABLE STANDARDS OF THE EUROPEAN COMMUNITY

For the implementation of this Title, the Energy Community shall adopt Measures adapting the *acquis communautaire* described in this Title, taking into account both the institutional framework of this Treaty and the specific situation of each of the Contracting Parties.



# European Directive 2003/54/EC (i)

## Article 2 - Definitions

- 4. 'transmission system operator' means a natural or legal person responsible for operating, ensuring the maintenance of and, if necessary, developing the transmission system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long term ability of the system to meet reasonable demands for the transmission of electricity;

**(Mute about assets ownership)**

## CHAPTER IV - TRANSMISSION SYSTEM OPERATION

### Article 8 - Designation of Transmission System Operators

- Member States shall designate, or shall require undertakings which own transmission systems to designate, for a period of time to be determined by Member States having regard to considerations of efficiency and economic balance, one or more transmission system operators. Member States shall ensure that transmission system operators act in accordance with Articles 9 to 12.

**Government Designates**



# European Directive 2003/54/EC (ii)

## Article 9 - Tasks of Transmission System Operators

Each transmission system operator shall be responsible for:

- (a) ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity;
- (b) contributing to security of supply through adequate transmission capacity and system reliability;
- (c) managing energy flows on the system, taking into account exchanges with other interconnected systems. To that end, the transmission system operator shall be responsible for ensuring a secure, reliable and efficient electricity system and, in that context, for ensuring the availability of all necessary ancillary services insofar as this availability is independent from any other transmission system with which its system is interconnected;
- (d) providing to the operator of any other system with which its system is interconnected sufficient information to ensure the secure and efficient operation, coordinated development and interoperability of the interconnected system;
- (e) ensuring non-discrimination as between system users or classes of system users, particularly in favour of its related undertakings;
- (f) providing system users with the information they need for efficient access to the system.

**TPA – Planning - Operation**



# European Directive 2003/54/EC (iii)

## Article 10 - Unbundling of Transmission System Operators

1. Where the transmission system operator is part of a vertically integrated undertaking, it shall be independent at least in terms of its **legal form, organisation and decision making** from other activities not relating to transmission. These rules shall not create an obligation to separate the ownership of assets of the transmission system from the vertically integrated undertaking.
2. In order to ensure the independence of the transmission system operator referred to in paragraph 1, the following minimum criteria shall apply:
  - (a) those persons responsible for the management of the transmission system operator **may not participate in company structures of the integrated electricity undertaking** responsible, directly or indirectly, for the day-to-day operation of the generation, distribution and supply of electricity;
  - (b) appropriate measures must be taken to ensure that the professional interests of the persons responsible for the management of the transmission system operator are taken into account in a **manner that ensures that they are capable of acting independently**;
  - (c) the transmission system operator shall have **effective decision-making rights, independent from the integrated electricity undertaking, with respect to assets necessary to operate, maintain or develop the network**. This should not prevent the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the parent company in respect of return on assets, regulated indirectly in accordance with Article 23(2), in a subsidiary are protected. In particular, this shall enable the parent company to approve the annual financial plan, or any equivalent instrument, of the transmission system operator and to set global limits on the levels of indebtedness of its subsidiary. It shall not permit the parent company to give instructions regarding day-to-day operations, nor with respect to individual decisions concerning the construction or upgrading of transmission lines, that do not exceed the terms of the approved financial plan, or any equivalent instrument;

# European Directive 2003/54/EC (iv)

## Article 11 - Dispatching and balancing

1. Without **prejudice** to the supply of electricity on the basis of contractual obligations, be responsible for **dispatching the generating installations** in its area and for determining the **use of interconnectors** with other systems.
4. A Member State may, for reasons of security of supply, direct that **priority** be given to the dispatch of generating installations using indigenous primary energy fuel sources, to an extent not exceeding in any calendar year 15 % of the overall primary energy necessary to produce the electricity consumed in the Member State concerned.
5. Member States may require transmission system operators to comply with minimum standards for the maintenance and development of the transmission system, including **interconnection capacity**.
6. Transmission system operators shall **procure** the energy they use to cover **energy losses and reserve capacity** in their system according to transparent, non-discriminatory and market-based procedures, whenever they have this function.
7. Rules adopted by transmission system operators for **balancing** the electricity system shall be objective, transparent and non-discriminatory, including rules for the charging of system users of their networks for energy imbalance.

**Independence vital for IPP's particularly if depending on exports**

# European Directive 2003/54/EC (v)

## Article 12 - Confidentiality for Transmission System Operators

Without prejudice to Article 18 or any other legal duty to disclose information, the transmission system operator shall **preserve the confidentiality of commercially sensitive information** obtained in the course of carrying out its business. Information disclosed regarding its own activities, which may be commercially advantageous, shall be made available in a non-discriminatory manner.

# Regulation 1228/2003 on cross-border Access

- Inter-TSO Compensation Scheme (**CBT**)
- Charges for **Access**
- Provision of **Information** on Interconnectors and Confidentiality
- Market-based **Congestion Management** methodologies

Non – “pancaking” of charges – co-ordinated border capacity allocation – Harmonisation of “G” – G & L transparent, non-distance related, may contain local signals and are set “ex-ante” by Regulator

## What does this all mean? (i)

- There is no prejudice **on the ownership of assets** or the form (TRANSCO/ISO) that the TSO should have.

But:

- a separate network company has to be set up (if it does not yet exist)
- the network company, if it remains under “control” of the related supply/generation company, has to be unbundled in functional terms, to ensure the necessary independence from the parent company.
- a situation where the network company maintains “control” of the related supply/generation company is incompatible with functional unbundling and, therefore, not permissible under the new directive

**Legal** = New entity / independent “Decision making”

**Functional** = Management Separation / Compliance Programme / “Chinese Walls” – Confidentiality

**Accounting** = Importance of accurate cost allocation



## What does this all mean? (ii)

- *EC Guidelines on Dir. 2003/54-55 “The Unbundling Regime” 16.1.04*

### APPLICATION OF UNBUNDLING RULES TO TSOs AND DSOs

	Legal Unbundling	Functional Unbundling	Accounting Unbundling
TSO	+	+	+
DSO above 100.000 customers	Exemption possible until 1.7.2007	+	+
DSO below 100.000 customers	Exemption possible	Exemption possible	+

# What does this all mean? (iii)

## 3.2. Legal form of the network company

“The vertically integrated company is in principle free to choose the **legal form** of the network company, provided that the type of company selected provides for sufficient independence of the management of the TSO/DSO from the parent company, in order to fulfil the requirements of functional unbundling.”

# Transmission Functions

The four conventional transmission functions are:

- **Grid Ownership** (long-term planning and expansion)
- **Transmission Operation** (Maintenance and short-term planning)
- **System Operation** (Real-time dispatch and control including balancing)
- **Market Operation** (Scheduling, Congestion Management, Settlements)



# Sorting of Critical Transmission Functions

TRANSMISSION  
GRID OWNERSHIP  
RELATED

**GO**

TRANSMISSION  
GRID OPERATION  
RELATED

**TO**

POWER SYSTEM  
OPERATION  
RELATED

**SO**

MARKET  
OPERATION  
RELATED

**MO**

TRANSMISSION  
GRID RELATED

SYSTEMS  
OPERATION  
RELATED



## ERO's position on the model of TSO (i)

ERO has a clear preference for the model of **TRANSCO**, a company that integrates ownership of assets, operation of the system, maintenance, planning and undertakes also the function of Market Operator as a separate “business centre”

ERO believes that a non-profit operator – but not owner of transmission lines (**ISO**) lacks the structure or **incentives** required to respond to market conditions and thus has inherent, built-in inefficiencies. In addition, the transfer of transmission asset control - but not ownership - to an agency with little incentive to maximize return on those assets, makes little sense from a business perspective.

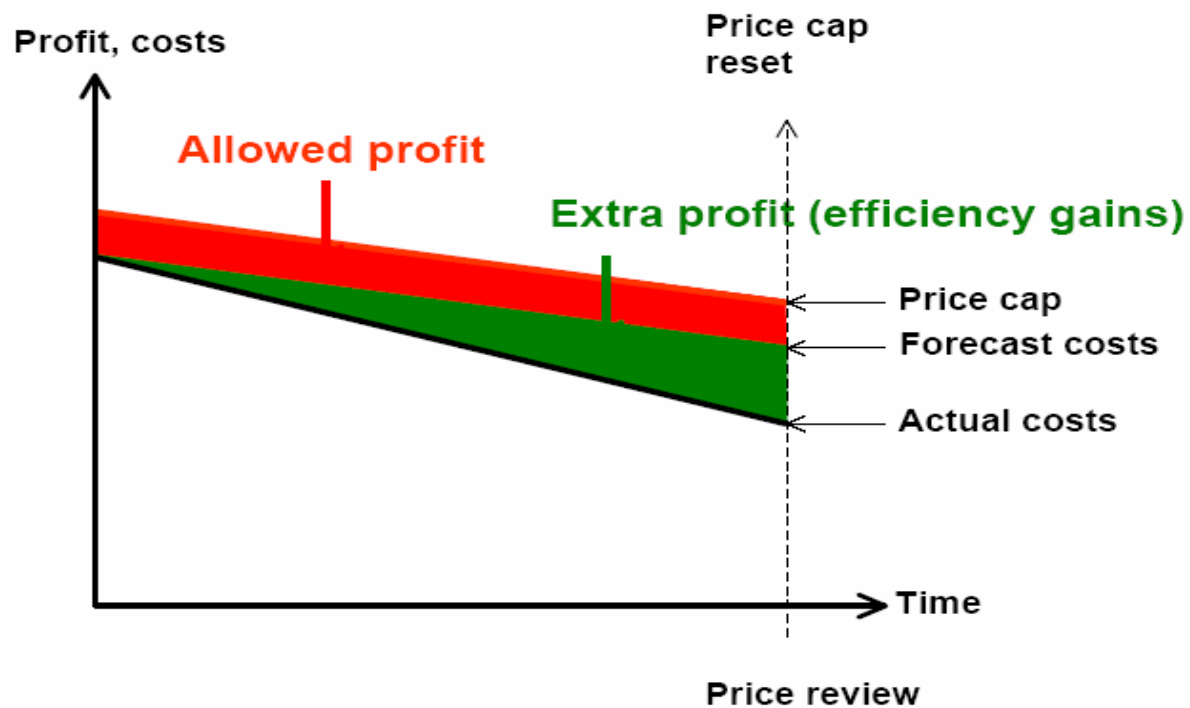
The **synergies** achieved through the ownership, planning, operation & maintenance and optimisation of assets (and implicitly through which the optimisation of ancillary services and losses is also achieved) are lost, when **command & control rules** are in place in order to regulate a non asset-owning entity that is planning and operating the assets of somebody else.

ERO's position paper published 12/10/2004 at ERO's web-site



## ERO's position on the model of TSO (ii)

ERO believes that such an entity subject to **incentive-based regulation** (price/revenue cap “**RPI-X**” set over a predetermined period say 5 years) improves the efficiency of operation planning of the system and provides guarantees to prospective IPP's particularly to a market where the ratio of internal market to exports is **almost 50%**



## ERO's position on the model of TSO (iii)

**An important principle is that the regulated company should be constrained to earn no more than a reasonable rate of return.**

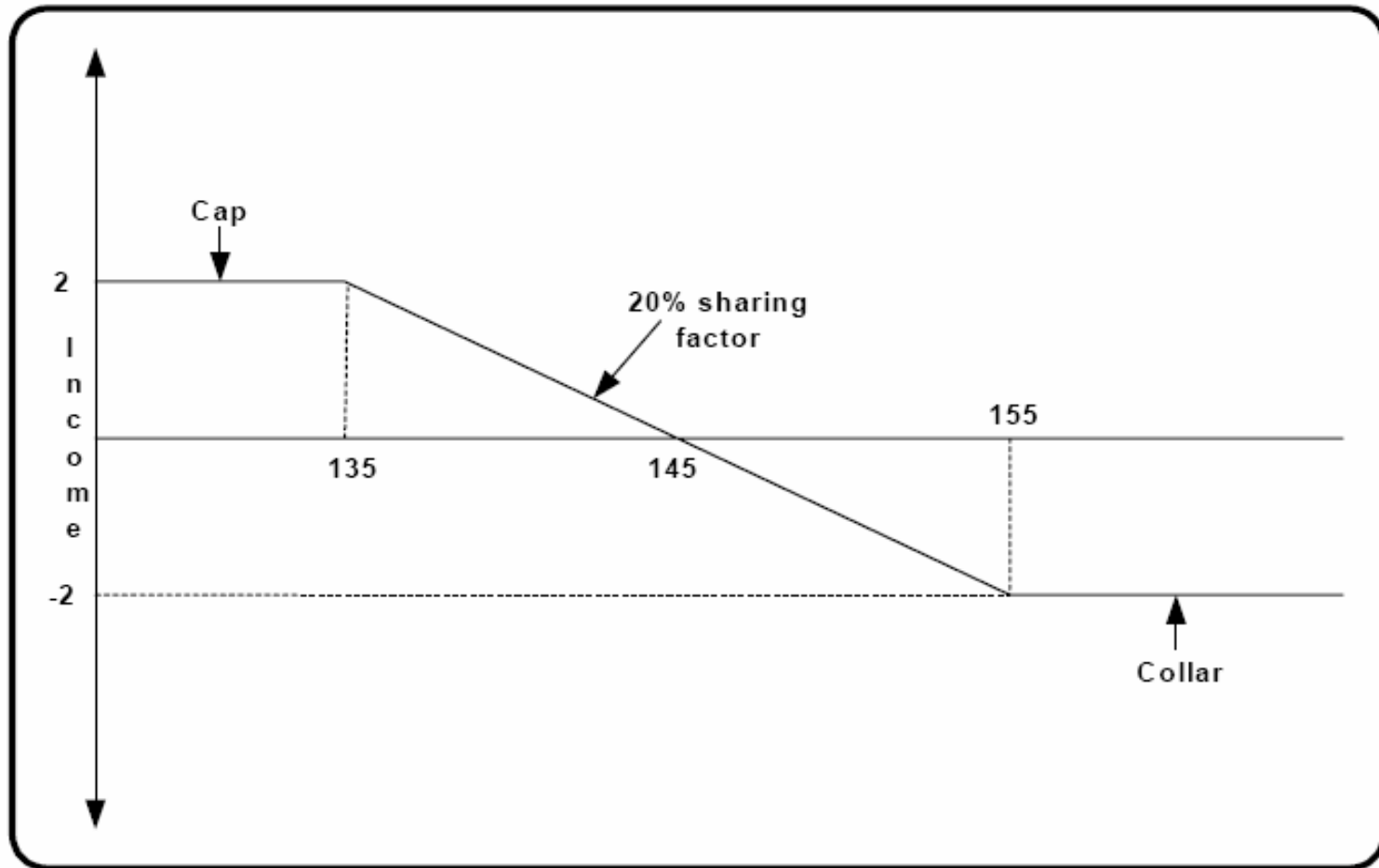
Such an entity can be subject to “unbundled regulatory control” but retaining the synergies of integrated operation:

The Regulator undertakes:

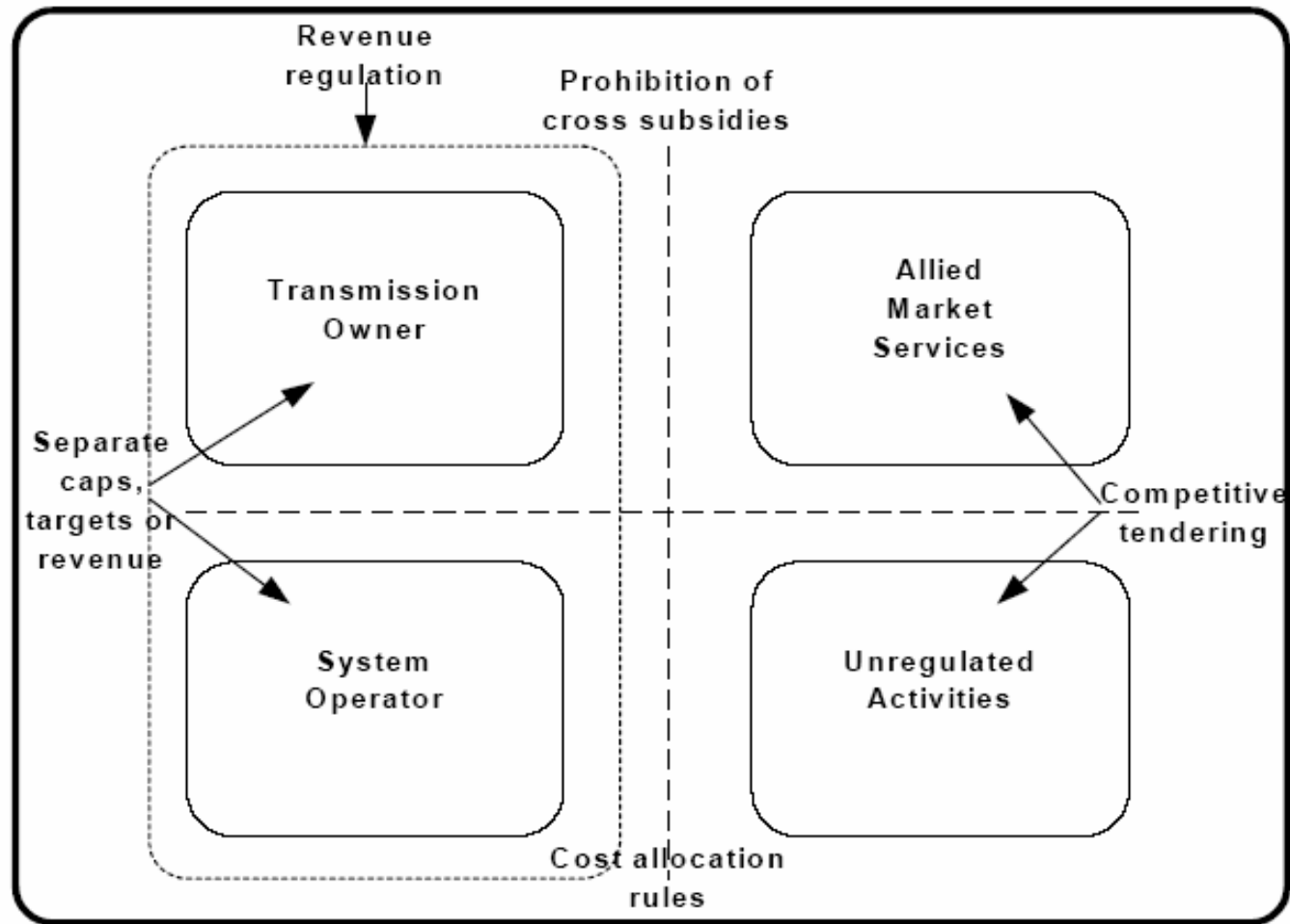
Asset Valuation, setting the Cost of Capital, approving **CAPEX** (GO), **OPEX** (TO/SO), Incentives to manage **Ancillary Services** costs (SO), choice of efficiency factor X, etc



# Profit Sharing – Sliding Scale Regulation

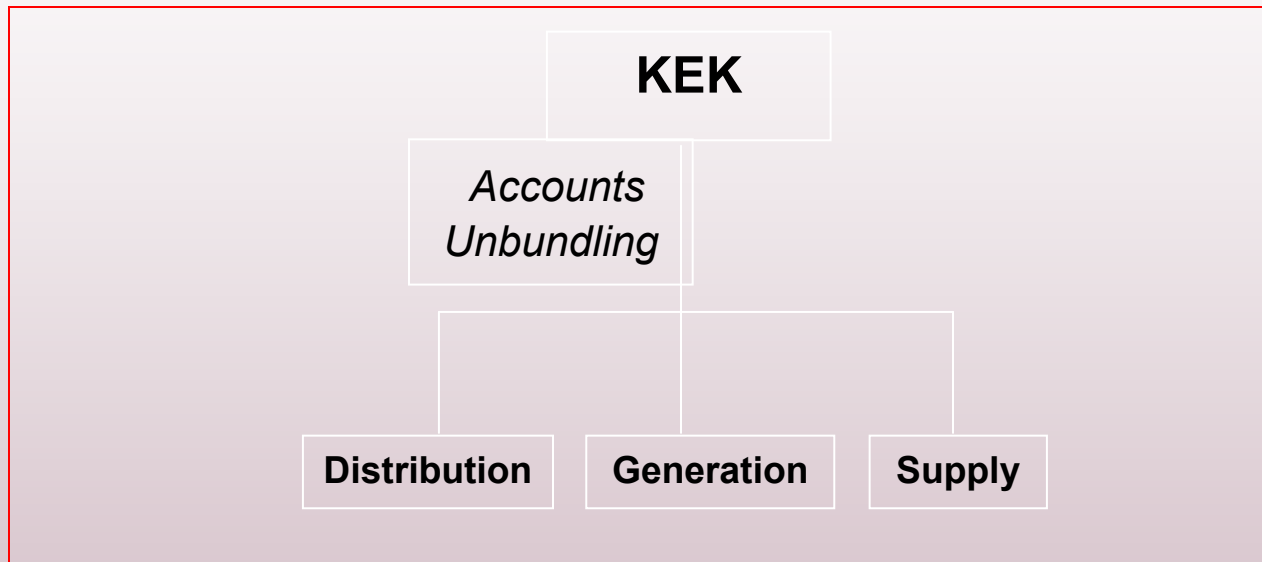


# Simplified Regulation model for TRANSCO



## In Conclusion ERO would recommend..

TSO established as independent company (TRANSCO),  
assets ownership “transferred” to TRANSCO



**Transmission Company (TRANSCO)**  
*Owner & Operator of transmission assets*

## But in case “guarantees” can be put in place...

TSO established as subsidiary of KEK assets ownership transferred to TSO, to be “spinned off” by 01/01/2008

