

Public Consultation: Revision of the EU's electricity market design

Fields marked with * are mandatory.

Electricity Market Design

The consultation document with the questions can also be downloaded here:

[EMD Consultation document.pdf](#)

Introduction

Background

Over the last year, electricity prices have been significantly higher than before. Prices started rising rapidly in summer of 2021 when Russia reduced its gas supplies to Europe while global demand picked up as COVID-19 restrictions were eased. Subsequently, Russia's invasion of Ukraine and its weaponisation of energy sources have led to substantially lower levels of gas delivery to the EU and increased disruptions of gas supply, further driving up the price. This has had a severe impact on EU households and the economy. High gas prices influence the price of electricity from gas fired power plants, often needed to satisfy electricity demand.

In the immediate reaction to global dynamics, the EU provided an energy prices toolbox with measures to address high prices (including income support, tax breaks, gas saving and storage measures). The subsequent weaponisation of gas supply and Russia's manipulation of the markets through intentional disruptions of gas flows have led not only to skyrocketing energy prices, but also to endangering security of supply. To address it, the EU had to act to diversify gas supplies and to accelerate energy efficiency and the deployment of renewable energy.

Following the Russian invasion of Ukraine in February 2022, the EU responded with REPowerEU - a plan for the Union to rapidly end its dependence on Russian energy supplies by strengthening the European resilience and security, reducing energy consumption, accelerating the roll-out of renewables and energy efficiency, and securing alternative energy supplies. The EU also established a temporary State Aid regime to allow certain subsidies to soften the impact of high prices. Further, to address the price crisis and security concerns, the EU has agreed and implemented a strong gas storage regime, effective demand reduction measures for gas and electricity, and price limiting regimes to avoid windfall profits in both gas and electricity markets.

The EU Electricity Market Design

The current electricity market design has delivered a well-integrated market, allowing Europe to reap the economic benefits of a single energy market in the normal market circumstances, ensuring security of supply and sustaining the decarbonisation process. Cross-border interconnectivity also ensures safer, more reliable and efficient operation of the power system.

Market design has also helped the emergence of new and innovative products and measures on retail electricity markets – supporting energy efficiency and renewable uptake and helping consumers reduce their energy bills also through emerging services for providing demand response. Building on and seizing the potential of the digitalisation of the energy system, such as active participation by consumers, will be a key element of our future electricity markets and systems.

In the context of the energy crisis, the current electricity market design has however also demonstrated a number of shortcomings. The reforms the Commission will undertake will address those shortcomings and ensure stable and well-integrated energy markets, which continue to attract private investments at a sufficient scale as an essential enabler of the European Green Deal objectives and the transition to a climate neutral economy by 2050.

In addition to these shortcomings, the European electricity sector is facing a number of more long-term challenges triggered by the rising shares of variable renewable energy and the progressive drive towards full decarbonisation by 2050. This includes ensuring investments, not just as regards renewables but also as regards weather independent low-carbon technologies until large scale storage and other flexibility tools become available. Stronger locational price signals in the system may be needed to ensure that the investments take place where they are needed, reflecting the physical reality of the electricity grid whilst at the same time ensuring incentives for cross-border long-term contracting. Some of these challenges will require ongoing policy reflections going beyond the scope of the current reform.

Making Electricity Bills More Independent from the Short-Term Cost of Fossil Fuels

The strong focus of the current market design on short-term markets, still very often determined by volatile fossil fuel prices, has exposed households and companies to significant price spikes with effects on their electricity bills. Many consumers found they had no option but to pay higher electricity prices driven by wholesale gas prices – either because they had no access to electricity cheaper electricity from renewable sources or could not install solar panels themselves.

The current regulatory framework regarding long-term instruments has proven insufficient to protect large industrial consumers, SMEs and households from excessive volatility and higher energy bills.

The gas price increase together with the strong role that short-term markets play in today's electricity market design have also boosted the revenues and profits well beyond the expectations of many generators with lower marginal costs such as renewables and nuclear ("inframarginal generators"), while receiving – in some cases - public support as well.

Short-term markets remain essential for the integration of renewable energy sources in the electricity system, to ensure that the cheapest form of electricity is used at all times, and to ensure that electricity flows smoothly between Member States. Whilst short-term price spikes can in general incentivize consumers to reduce or shift their demand, sustained high prices over a longer period translate into

unaffordable bills for many consumers and companies.

This is why there is a need to complement the regulatory framework governing these short-term markets with additional instruments and tools that incentivise the use of long-term contracts to ensure that the energy bills of European consumers and companies - and the revenues of inframarginal generators - become more independent from the fluctuation of prices in short-term markets (often driven by fossil fuel costs) and thus more stable over longer periods of time. The reforms should create a buffer between consumers and short-term markets, ensuring that they will be better protected from extreme prices and that electricity bills better reflect the overall electricity mix and the lower cost of generating electricity from renewables. Electricity bills across Europe should depend less on the short-term markets, with an increasing share of consumers shifting into more stable and affordable longer-term pricing arrangements.

There are two main types of long-term contracts which allow to pass on the benefits of renewables to all consumers. One is power purchase agreements (PPAs) between private parties which ensure that electricity is sold on a long-term basis at an agreed price, therefore not determined by short-term markets. Power purchase agreements bring multiple benefits. For consumers, they provide cost competitive electricity and hedge against electricity price volatility. For renewable projects developers, they provide a source of stable long-term income. For governments, they provide an alternative avenue to the deployment of renewables without the need for public funding. Although power purchase agreements are becoming more widespread in the EU and the Renewable Energy Directive obliges the Member States to remove unjustified barriers to their development, the overall market share of power purchase agreements remains limited. The growth of power purchase agreements is concentrated in some Member States only and confined to large companies.

The Commission will suggest ways in which the share of PPAs in the overall electricity market can be increased and their roll-out incentivised through the market design. The uptake of power purchase agreements, in particular by small and medium companies, can, for example, be more widely promoted by public tendering for renewable energy in which a share of a project could be contracted through power purchase agreements. Credit guarantees to power purchase agreements backed by public actors could be considered as a form of support that could efficiently drive the emergence of a power purchase agreement market. Potentially, measures could be considered to ensure that industrial consumers use the full potential of power purchase agreements to lower their exposure to short-term markets and that energy suppliers more actively enter into the power purchase agreement market.

The other type of long-term contracts applies where public support is needed to trigger investments, so-called two-way contracts for difference ("two-way CfDs"). These contracts ensure that the income of the generators in question (and the corresponding cost for consumers) provides an adequate incentive to invest and is less dependent on short-term markets. These contracts for difference are typically established by a competitive tender process, allowing support to be channelled to the projects with the lowest expected production costs. In situations of very high prices two-way CfDs would provide Member States with additional funds for reducing the impact of high electricity prices on consumers.

The upcoming reform offers an opportunity to present ways in which two-way CfDs can be integrated into the electricity market design. A number of issues need to be considered in this context, notably as to the extent to which the use of CfDs becomes mandatory for investments involving public support and whether the use of such contracts should only cover new generation assets entering the market or also certain types of existing generation assets.

In any case, given the multiple benefits of the power purchase agreements, the actions of the reform concerning the CfDs should not affect the development of the power purchase agreement market across the EU. Both instruments are necessary complements to achieve the necessary deployment of renewables.

- The simplest way to introduce two-way CfDs would be to complement the existing principles for support schemes with the specific ones to govern such contracts in the regulatory framework, with Member States deciding whether or not to use these instruments to drive new investments in inframarginal generation.
- A more binding way to anchor these contracts in the regulatory framework would be to require that all investments involving the use of public support rely on such contract structures. This would need to be carefully calibrated to ensure that CfDs provide the necessary incentives at the least cost for consumers.
- Another option would be to not only envisage the use of CfDs for new generation but also to allow Member States to offer contracts on certain types of existing inframarginal generators (e.g., for specific types of technologies). These contracts could be awarded to existing generation, where possible, on the basis of competitive bidding.
- A more far-reaching approach would be to not only envisage the use of CfDs for new generation but also to allow Member States to impose these contracts on certain types of existing inframarginal generators (e.g., for specific types of technologies). Contrary to the situation for new generation, the contracts for these types of existing generators would typically not result from market-based tendering but would result from ex-post price regulation. Whilst this would accelerate the uptake of contracts for difference, it would also create significant uncertainty for investors in renewables. This could risk the necessary investments in this type of generation, increase the costs of those investments and as a result be counterproductive.

Driving Renewable Investments – Europe’s Way Out of the Crisis

Increasing renewable energy deployment as well as electrification in general, is critical for Europe’s security of supply, the affordability of energy and achieving climate neutrality by 2050. The accelerated deployment of renewables and energy efficiency measures will structurally reduce demand for fossil fuels in the power, heating and cooling, industry and transport sectors. Thanks to their low operational costs, renewables can lower energy prices across the EU. Furthermore, faster deployment of renewable energy will contribute to EU’s security of energy supply.

Any regulatory intervention in the electricity market design therefore needs to preserve and enhance the incentives for investments and provide investors with certainty and predictability, while addressing the economic and social concerns related to high energy prices.

Alternatives to Gas to Keep the Electricity System in Balance

The consultation also covers ways to improve the conditions under which flexibility solutions such as demand response, energy storage and other weather independent renewable and low carbon sources, compete in the markets. These include measures aimed at incentivising the development of such flexibility solutions in the market (such as adapting the tariff design of system operators to ensure that they fully consider all flexibility solutions and use the existing network as efficiently as possible, allowing for access to more detailed data from electricity consumers through the installation of submeters or developing products

to reduce demand or shift energy consumption in periods of high demand or prices) and targeted measures to improve the efficiency of the short-term markets, with particular focus on the intraday market (such as allowing trading across Member States closer to the delivery of electricity and further increasing the liquidity in this market). In addition, the consultation seeks input on how to safeguard security of supply and adequacy also in situations of unforeseen crisis to ensure timely investments in capacity.

Combined with renewable generation and enhanced investments in grid capacity and inter-connectivity, this should contribute to reducing the role that natural gas-fired generation plays as a flexible source of generation and will, over time, replace, and thereby, phase out natural gas-fired power generation in line with the EU's decarbonisation targets.

Lessons Learned from Short Term Market Interventions

During the crisis, a number of emergency and temporary market interventions have been introduced to mitigate the impact of high energy prices on consumers and companies. In the electricity market, the measure introduced at EU level is the so-called inframarginal cap, which softened the impact of high prices whilst requiring mandatory demand reduction.

The consultation seeks stakeholders' views on whether certain aspects of these emergency interventions could be turned into more structural features of the electricity market design, for example activated in future crisis situations, and if so, under what conditions.

Any such potential element of the reform would depend on the success of these measures in terms of limiting the impact of high electricity prices and on whether they can be introduced without harming the investment incentives required to achieve the decarbonisation of the power sector.

Better Consumer Empowerment and Protection

The energy crisis has exposed consumers across the internal market to higher energy costs – resulting in a real lowering of their standard of living. In some cases, customers face a choice between paying for their energy and buying other essential goods[1][2]. The crisis has also hit industry and service sectors increasing energy costs, particularly for energy intensive industry. This has given rise to cuts in production capacity, temporarily or permanent closures and lay-offs.

The Electricity Directive has not yet been fully implemented. Better implementation, and enforcement of consumer rights, would have helped mitigate the impact of the crisis for consumers. However, targeted improvements are also needed. This consultation covers different options for creating a buffer between consumers and short-term energy markets.

By giving consumers who want to actively participate in energy markets more opportunities to do so, including by sharing energy to control their costs[3]. We can also better use digitalisation tools to make it easier for consumers with renewable heating or electromobility to manage their costs through avoiding the most expensive times of the day to use grid electricity. Even without being active on the market consumers need to be able to access longer term contracts for electricity, notably based on renewable power purchase agreements between suppliers and renewable producers. This will allow them to manage their costs and support new investments in renewable energy.

The crisis has also shown that often consumers pick up the costs when suppliers fail. This could be mitigated by requiring suppliers to be adequately hedged, combined with an effective Supplier of Last Resort Regime to ensure continuity of supply.

Finally, in cases of crisis it may be worthwhile enabling Member States to guarantee households and SMEs access to a minimum necessary amount of electricity at an affordable price, as was done in the Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices.

Stronger Protection against Market Manipulation

Regulation 1227/2011 on wholesale market integrity and transparency (REMIT) ensures that consumers and other market participants can have confidence in the integrity of electricity and natural gas markets, that prices reflect a fair and competitive interplay between supply and demand, and that no profits can be drawn from market abuse. In times of very high price volatility, external actors' interference, reduced supplies, and new trading behaviours, there is a risk that entities engage in illegal wholesale trading practices. There is therefore a need to ensure that the REMIT framework is up to date and robust. Further improvements would increase transparency, monitoring capacities and ensure more effective investigation and enforcement of cross-border cases in the EU to support new electricity market design.

Next Steps

The aim of the present public consultation is to give the opportunity to all stakeholders and other interested parties to provide feedback on a series of policy objectives to be pursued by the reform proposal and possible concrete legislative and non-legislative measures resulting from them.

The Commission intends to present a proposal for amendments to the electricity market design in March 2023. The replies to the present consultation should be provided by 13 February 2023 at the latest.

[1] See European Pillar of Social Rights, principle 20, and also the upcoming first EU Report on Access to Essential Services.

[2] See notably the Eurobarometer on "Fairness perceptions of the green transition", 10 October 2022

[3] Examples include allowing families to share energy among the different members located in different parts of the country; farmers installing renewable generation on one part of their farm and using the energy in their main buildings even if located a distance away; municipalities and housing associations including off-site energy as part of social housing, directly addressing energy poverty. Electricity production and consumption would need to take place at the same time which can be ensured by the use of smart metering.

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
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- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* First name

Lucie

* Surname

Rysava

* Email (this won't be published)

lrysava@minsait.com

* Organisation name

255 character(s) maximum

All NEMO Committee - it facilitates the cooperation among NEMOs for all common European tasks necessary for the efficient and secure design, implementation and operation of single day-ahead and intraday coupling.

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

* Country of origin

Please add your country of origin, or that of your organisation.

This list does not represent the official position of the European institutions with regard to the legal status or policy of the entities mentioned. It is a harmonisation of often divergent lists and practices.

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- Bosnia and Herzegovina
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- French Polynesia
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- Gabon
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- Ghana
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- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
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- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
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- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
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- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
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- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
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- Iraq
- Ireland
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- Israel
- Italy
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- Kenya
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- New Caledonia
- New Zealand
- Nicaragua
- Niger
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- Norfolk Island
- Northern Mariana Islands
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- Norway
- Oman
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- Palau
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- Papua New Guinea
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- Peru
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- Tanzania
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- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Türkiye
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
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- Vanuatu
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| <input type="radio"/> Denmark | <input type="radio"/> Liberia | <input type="radio"/> Saint Lucia | |

To which category of stakeholder do you belong?

- a) National or local administration
- b) National regulator
- c) Transmission System Operator
- d) Distribution System Operator
- e) Market operator
- f) Energy company with generation assets
- g) Independent energy supplier with no generation assets
- h) Company conducting business in the energy sector not included in f) or g)
- i) Industrial consumer and associations
- j) Energy community
- k) Academia or think tank
- l) Citizen or association of citizens
- m) Non-governmental organisations
- n) Other

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

Please provide feedback only on the questions that are relevant for you. Questions can be left blank.

Making Electricity Bills Independent of Short-Term Markets

Subtopic: Power Purchase Agreements (PPAs)

The conclusion of PPAs between electricity generators and final customers (including large industrial customers, SMEs and suppliers), is a way of supporting long-term investment by providing both parties with certainty regarding the price level over a longer time horizon (typically, 5 to 20 years) compared to other alternatives. In particular, PPAs contribute to reduce the uncertainty of final customers concerning electricity prices and their exposure to price variations, allowing to make consumers' bills independent from the fluctuation of fossil fuels prices. However, as PPAs are contracts signed over a long period of time, they bear considerable risks and costs for smaller market participants. Hence, their accessibility is currently limited to a few large final customers (e.g. energy intensive undertakings), creating a risk that access to decarbonised generation is limited to a subset of consumers.

Whilst the uptake of renewable PPAs is growing year-on-year, the market share of projects marketed under renewable power purchase contracts covers still only 15-20% of the annual deployment. Furthermore, renewable PPAs are limited to certain Member States and large undertakings, such as energy intensive

undertakings.

To address these barriers, Member States can consider ways of supporting the conclusion of PPAs in line with State Aid rules. The Commission has described in detail the additional measures that could help the development of renewable PPAs in the Commission Staff Working document accompanying the REPowerEU Communication[1]. This could be achieved, inter alia, by pooling demand in order to give access to smaller final customers, by providing State guarantees in line with the State Aid Guarantee Notice [2] and by supporting the harmonization of contracts in order to aggregate a larger volume of demand and enable cross-border contracts.

[1] Commission Staff Working Document Guidance to Member States on good practices to speed up permit-granting procedures for renewable energy projects and on facilitating Power Purchase Agreements Accompanying the document Commission Recommendation on speeding up permit-granting procedures for renewable energy projects and facilitating Power Purchase Agreements SWD/2022/0149 final

[2] <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52008XC0620%2802%29>

Do you consider the use of PPAs as an efficient way to mitigate the impact of short-term markets on the price of electricity paid by the consumer, including industrial consumers?

- Yes
 No

Please describe the barriers that currently prevent the conclusion of PPAs.

2000 character(s) maximum

In addition to traditional forward markets, financial PPAs represent an optional market-based management tool to hedge against price and volume risks in the electricity market especially for longer time horizons. However, there are indeed several factors that limit the conclusion of PPAs in the current environment:

- a) Significant amounts of renewable energy sources in Europe are linked to state support schemes and therefore do not qualify for PPAs which has limited the growth of the PPA market and prevented it from becoming more mature.
- b) Building new RES is being slowed down due to lengthy permitting processes, regulatory complexity and other factors, and therefore reduces the opportunity to enter into PPAs.
- c) As a hedging tool PPAs are mostly only available to larger suppliers, industrial & commercial consumers with good credit risk profiles. They also come with significant legal costs as they are complex contracts and often require significant time and negotiation prior to conclusion.
- d) The counterparty default risk needs to be insured in one way or another which comes at a significant cost.
- e) In some markets, the pool of available participants may be limited, making it difficult for smaller participants in particular to conclude a PPA.
- f) PPAs have a high-country risk for investors due to national taxation schemes or price caps.
- g) Periods of high prices and high volatility render PPAs less attractive due to the related long-term risk and possible lock-in effects when electricity prices return to more typical levels.
- h) There exist several additional practical barriers such as limited knowledge among developers and investors about the various market instruments available to them for hedging.

Do you consider that the following measures would be effective in strengthening the roll-out of PPAs?

at most 6 choice(s)

- a) Pooling demand in order to give access to smaller final customers
- b) Providing insurance against risk(s) either market driven or through publicly supported guarantees schemes (please identify such risks)
- c) Promoting State-supported schemes that can be combined with PPAs
- d) Supporting the standardisation of contracts
- e) Requiring suppliers to procure a predefined share of their consumers' energy through PPAs
- f) Facilitating cross-border PPAs

In addition to the measures proposed in the question above, do you see other ways in which the use of PPA for new private investments can be strengthened via a revision of the current electricity market framework?

- Yes
- No

Do you see a possibility to provide stronger incentives to existing generators to enter into PPAs for a share of their capacity?

- Yes
- No

Please explain

2000 character(s) maximum

In order to better protect consumers, we would argue against an artificial large-scale PPA rollout that is not based on actual market demand. PPAs can be an effective tool for hedging. However, there should be freedom of choice regarding the market and contract type market participants would like to enter into.

Do you consider that stronger obligations on suppliers and/or large final customers, including the industrial ones, to hedge their portfolio using long term contracts can contribute to a better uptake of PPAs?

- Yes
- No

Do you consider that increasing the uptake of PPAs would entail risks as regards

	Yes	No

(a) Liquidity in short-term markets	<input checked="" type="radio"/>	<input type="radio"/>
(b) Level playing field between undertakings of different sizes	<input type="radio"/>	<input type="radio"/>
(c) Level playing field between undertakings located in different Member States	<input type="radio"/>	<input type="radio"/>
(d) Increased electricity generation based on fossil fuels	<input type="radio"/>	<input type="radio"/>
(e) Increased costs for consumers	<input type="radio"/>	<input type="radio"/>

If yes, how can these risks be mitigated?

2000 character(s) maximum

Potentially, PPAs pose a risk to the liquidity of short term markets, depending on the respective volumes of the PPAs and of the short-term markets, and on their design features.

If the draining of the liquidity is substantial, it will also impact the quality of price formation.

NEMOs also note that other long-term products, e.g. forwards, could fulfil the same objectives as PPAs without having negative effects on ST markets.

The impact of PPAs will also depend on their exact design. While the impact of virtual/financial contracts is certainly limited, physical PPAs, especially concluded directly between generators and end-customers certainly risk decreasing liquidity in the short-term markets.

Subtopic: Forward Markets

Organised forward markets are a useful tool for suppliers and large consumers such as energy intensive undertakings to protect themselves against the risk of future increases in electricity prices and to decouple their energy bills from fluctuations of fossil fuel prices in the medium to long-term. However, it has been argued that liquidity in many organised forward markets across the EU is insufficient and that the time horizon for such hedging seems too short (usually up to one year). One possibility to increase the liquidity in forward markets would be to establish virtual trading hubs for forward contracts, as already exist in certain regions.

Such hubs would need to be complemented with liquid and accessible transmission rights to hedge the remaining risk between the hub and each zone.

While hedging up to approximately three years could be improved with better organization of the market, additional measures might be needed to incentivise forward hedging beyond this timeframe (see for example the section above on PPAs).

Do you consider forward hedging as an efficient way to mitigate exposure to short-term volatility for consumers and to support investment in new capacity?

- Yes
- No

Do you consider that the liquidity in forward markets is currently sufficient to meet this objective?

- Yes
- No

In your view, what prevents participants from entering into forward contracts?

2000 character(s) maximum

In your view, would requiring electricity suppliers to hedge for a share of their supply be beneficial for consumers and for retail competition?

- Yes
- No

Do you consider that the creation of virtual hubs for forward contracts complemented with liquid transmission rights would improve liquidity in forward markets?

- Yes
- No

Do you have experience with the existing virtual hubs in the Nordic countries?

- Yes
- No

In your view, what would be the possible ways of supporting the development of forward markets that could be implemented through changes of the electricity market framework?

3000 character(s) maximum

Forward market development would significantly benefit from a streamlining of market rules and regulations, particularly financial services regulation. Simplifying these would reduce the barriers to entry for new participants and encourage the development of new products and services. Furthermore, refraining from policies which directly intervene in the market would improve certainty and help to promote forward market liquidity. Enhancing the predictability of market design allows participants to more confidently enter into long-term hedging positions and make use of existing products. Allowing for a broader variety of accepted collaterals by clearing houses could help market players to mitigate their risks via financial instruments. For example, the value of power or gas supply contracts follows the value changes of open positions, thus they could serve as good supplement to current solutions.

Measures to accelerate the permitting procedures for new renewable energy projects and increasing

transmission capacity in power networks would also provide wide-ranging benefits for long- and short-term markets. In addition, the introduction of spread products with mandatory cross-margining among clearing banks as well as coupling could add liquidity for the forward market liquidity in some bidding zones. Finally, policymakers should carefully consider the effects of market harm (i.e., loss in liquidity) when deciding on bidding zone reconfiguration with smaller bidding zones usually leading to lower liquidity levels. Rather, ensuring that TSOs (and DSOs) invest in network capacity, adding supply flexibility, improving demand response, developing innovative storage solutions as well as limiting the scope and duration of subsidies can all contribute meaningfully to supporting forward market development.

Subtopic: Contracts for Difference (CfDs)

Two-way CfDs and similar arrangements have been used in some Member States to support publicly financed investments in new inframarginal generation (in particular, renewables) to cater for situations where the necessary investments are not made on a market basis. Similarly to PPAs, they ensure a greater certainty to investors and consumers, and they cater for situations where the necessary investments require public support.

Public support for new inframarginal generation granted in the form of two-way CfDs could ensure that the beneficiaries receive a certain minimum level of remuneration for the electricity produced, while preventing disproportionate revenues. Typically, the beneficiary receives a guaranteed payment equal to the difference between a fixed 'strike' price and a reference price and the revenues above the strike price need to be returned to the CfD counterpart (i.e. Member State).

At the same time, two-way CfDs require the generation supported by the CfDs to pay back the difference between the market reference price and a maximum strike price whenever the reference price exceeds the strike price. If these paybacks are then channelled back to the consumers, suppliers or taxpayers, two-way CfDs also provide them with some protection against excessive prices and volatility, if they are passed on proportionally and objectively.

As it may be difficult for regulators to estimate the actual investment costs, the possibility to determine the remuneration of supported generators through a competitive bidding process is an important instrument to avoid long-lasting excessive costs.

Do you consider the use of two-way contracts for difference or similar arrangements as an efficient way to mitigate the impact of short-term markets on the price of electricity and to support investments in new capacity (where investments are not forthcoming on a market basis)?

- Yes
- No

Do you have additional comments?

2000 character(s) maximum

Contracts for Difference (CfDs) can be concluded in a broad range of configurations. Aside from two-way CfDs as referenced in this question, many Member States already employ one-sided CfDs to varying degrees of success. Against this background, it is important to clarify the term “two-way CfD” to ensure all stakeholders are referring to the same concept. In our understanding, this subtopic refers to state backed CfDs whereby the state assumes the risk of investment. In this case, the state becomes the counterparty to all related transactions.

In case state backed two-way CfDs were to be implemented at scale, this would have a significant impact on long- and short-term market liquidity.

Depending on their specific design, CfDs are able to support investment stability thereby mitigating the exposure to wholesale price volatility, while ensuring a longer-term revenue stability, e.g. for new investments in low-carbon generation. At the same time, two-way CfDs keep a direct connection with the spot market to which they reference and may follow its volatility, again depending on their specific design. While CfDs should not become the primary investment instrument for new renewable capacities, they could complement market-based tools in a target manner. CfDs can provide a stable income guarantee for new green technologies that may otherwise not become commercially viable. CfDs should be strictly limited in time and scope and only be used in such circumstances where market-based tools would not be feasible.

Should new publicly financed investments in inframarginal electricity generation be supported by way of two-way contracts for differences or similar arrangements, as a means to mitigate electricity price spikes of consumers while ensuring a minimum revenue?

- Yes
- No

Do you have additional comments?

2000 character(s) maximum

While CfDs should not become the primary investment instrument for new renewable capacities as they can distort price signals and negatively impact the well-functioning of spot and forward markets, they could complement market-based tools in a target manner. CfDs can provide a stable income guarantee for new green technologies that are not yet commercially viable. CfDs should be strictly limited in time and scope and only be used in such circumstances where market-based tools would not be feasible. As soon as such projects are commercially viable CfDs should not be entered into any longer. As recent experiences have shown, the roll-out of renewables is dependent on the right framework conditions. Therefore, the already identified bottlenecks, such as permitting and grid expansion, need to be addressed with priority.

What power generation technologies should be subject to two-way contracts for difference or similar arrangements?

2000 character(s) maximum

If a particular technology is not yet mature enough to enter the market without support, there are less market distortive ways to subsidize this. For example, using upfront, one-time payments to get a particular technology off the ground would provide the necessary funding without the same negative effects CfDs would have on the market.

Why should those technologies be subject to two-way contracts for differences or similar arrangements?

2000 character(s) maximum

What technologies should be excluded and why?

2000 character(s) maximum

What are the main risks of requiring new publicly supported inframarginal capacity to be procured on the basis of two-way contracts for difference or similar arrangements, for example as regards of the impact in the short-term markets, competition between different technologies, or the development of market based PPAs?

2000 character(s) maximum

The scope and design of CfDs must be carefully considered to avoid subsidising technologies which are not climate friendly, for example if the support criteria were to refer to “inframarginal capacity” and the price of natural gas was to return to lower levels. Additionally, CfDs should not support technologies which can break even at market prices. Conversely, CfDs may lead to a situation where fossil fuel technologies are abandoned too quickly when they are still needed to ensure economic efficiency and security of supply – for example driving gas out of the market before there is an efficient alternative to handle the intermittent generation of renewables. There is also uncertainty as to how specific CfDs for offshore systems could be integrated into the needed future expansion of renewables and their overall funding framework.

What design principles could help mitigate the risks identified in your reply to the question above, in particular, in terms of procurement principles and pay out design? Should these principles depend on the technology procured?

2000 character(s) maximum

How can it be ensured that any costs or pay-out generated by two-way CfDs in high-price periods are channelled back to electricity consumers? Should a default approach apply, for example, should these revenues or costs be allocated to consumers proportionally to their electricity consumption?

2000 character(s) maximum

What should be the duration of a two-way CfD for new generation and why? Should this differ depending on the technology type?

2000 character(s) maximum

CfDs for different technologies would require different time horizons as these technologies will gradually become more competitive.

Should generation be free to earn full market revenues after the CfD expires, or should new generation be subject to a lifetime pay-out obligation?

2000 character(s) maximum

Generation should not be subject to a lifetime pay-out obligation as volumes would be withheld from the market.

Without prejudice to Article 6 of Directive (EU)2018/2001[1], should it be possible for Member States to impose two-way CfDs by regulatory means on existing generation capacity?

[1]

Article 6 (1): Without prejudice to adaptations necessary to comply with Articles 107 and 108 TFEU, Member States shall ensure that the level of, and the conditions attached to, the support granted to renewable energy projects are not revised in a way that negatively affects the rights conferred thereunder and undermines the economic viability of projects that already benefit from support.

Article 6(2): Member States may adjust the level of support in accordance with objective criteria, provided that such criteria are established in the original design of the support scheme.

- Yes
 No

Do you have additional comments?

2000 character(s) maximum

How would you rate the following potential risks as regards the imposition of regulated CfDs on existing generation capacity?

	Negligible risks	Low risks	Medium risks	High risks	Very high risks
Legitimate expectations/legal risks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Ability of national regulators/governments to accurately define the level of the price levels envisaged in these contracts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Locking in existing capacity at excessively high price levels determined by the current crisis situation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

How would you address those potential risks as regards the imposition of contracts for difference on existing generation capacity?

2000 character(s) maximum

Would it be enough for existing generation to be subject only to a simple revenue ceiling instead of a revenue guarantee?

- Yes
- No

What are the relative merits of PPAs, CfDs and forward hedging to mitigate exposure to short-term volatility for consumers, to support investment in new capacity and to allow customers to access electricity from renewable energy at a price reflecting long run cost?

2000 character(s) maximum

Some NEMOs (e.g. SEM) are concerned that while the CFDs give certainty to investors, they reduce the efficient response to price in the wider markets, and therefore hamper the incentives to develop implicit demand response.

Overall, it is important to make a large and diverse range of hedging instruments available for market participants to manage their long- and short-term risks according to their particular needs.

Forward markets are a means to hedge against price volatility in short term markets up to 3-5 years ahead with possibilities to hedge even up to 10 years. Forward hedging is the strongest tool at our disposal to mitigate price volatility and ensure renewable energy is efficiently integrated into the energy system. Forward markets allow consumers to secure a stable and predictable price for their energy supply by locking in a price in advance through the forward contract. They provide stability for energy producers by allowing them to secure a minimum price for their energy, even if market conditions change.

PPAs have several benefits. For consumers, PPAs provide fixed price contracts and a hedge against electricity price volatility. For investors in renewable capacity, PPAs provide a stable long-term income.

CfDs can also be useful for bringing new renewable technologies to the market.

RES volumes that have been hedged under RES support schemes and/or PPAs and are for physical delivery should be traded in the SDAC coupled day-ahead auction. This will set the right incentives for a closer integration of long- and short-term markets for renewables. RES support schemes and PPAs will have an incentive to align with standardised SDAC products to allow for seamless trading on the organised electricity spot markets.

[the rest of the answer is included in the attachment to this consultation reply]

The shortage in gas and electricity supply as well as the relatively inelastic energy demand have led to significant increases in prices and volatility of gas and electricity prices in the EU. As stated above, a faster deployment of renewables constitutes the most sustainable way of addressing the current energy crisis and of structurally reducing the demand for fossil fuels for electricity generation and for direct consumption through electrification and energy system integration. Thanks to their low operational costs, renewables can positively impact electricity prices across the EU and reduce direct consumption of fossil fuels.

Through the REPowerEU plan, the European Commission has put forward a range of initiatives to support the accelerated deployment of renewable energy and to advance energy system integration. These include the proposal to increase the renewable energy target by 2030 to 45% in the Renewable Energy Directive, legislative changes to accelerate and simplify permitting for renewable energy projects or the obligation to install solar energy in buildings.

These efforts should be accompanied by appropriate regulatory and administrative action at national level and by the implementation and enforcement of the current EU legislation.

Within the framework of the Electricity Market legislation, accelerating the deployment and facilitating the uptake of renewables is one of the guiding principles of the Clean Energy Package and of this consultation paper. For example, a transmission access guarantee could be envisaged to secure market access for offshore renewable energy assets interconnected via hybrid projects, where the relevant TSO(s) would compensate the renewable operator for any hours in which the actions of the TSO led to not enough transmission capacity being accessible to the offshore wind farm to offer their export capabilities to the electricity markets[1].

Also, removing the barriers for the uptake of renewable PPAs or generalising two-way CfDs, enhancing consumer empowerment and protection, and increasing demand response, flexibility and storage should contribute to the accelerated deployment of renewables.

[1] See the recommendations of the Study “Support on the use of congestion revenues for Offshore Renewable Energy Projects connected to more than one market” https://energy.ec.europa.eu/system/files/2022-09/Congestion%20offshore%20BZ.ENGIE%20Impact.FinalReport_topublish.pdf

Do you consider that a transmission access guarantee could be appropriate to support offshore renewables?

- Yes
- No

Do you see any other short-term measures to accelerate the deployment of renewables?

	Yes	No
At national regulatory or administrative level	<input checked="" type="radio"/>	<input type="radio"/>

In the implementation of the current EU legislation, including by developing network codes and guidelines	<input checked="" type="radio"/>	<input type="radio"/>
Via changes to the current electricity market design	<input type="radio"/>	<input checked="" type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>

If yes, please specify

2000 character(s) maximum

(a, b) In terms of EU legislation, the ongoing Renewable Energy Directive (RED) review should be finalised as soon as possible, and the new rules swiftly transposed into national law and comprehensively applied. When it comes to permitting procedures, Member States should swiftly identify 'renewable go-to-areas', ideally before the 30-month deadline set for national transposition. It is of utter importance that renewable permitting procedures are simplified, streamlined and accelerated to ensure the deployment of new renewable capacity stays on track with the 40% RES target proposed in the ongoing RED review. Also, the energy system must be fit for such a massive increase in renewable production which will become inherently more decentralised and more volatile. Congestion might increasingly become an issue for the EU electricity grid. Therefore, the development of local flexibility markets for market-based congestion management is an essential complement to the necessary but costly grid expansion. Such markets represent a "soft" and cost-efficient solution to complement grid development for tackling congestion through making best use of system flexibility and increasing demand-side flexibility (see also our response to Question 3). At EU level, to increase the deployment of flexibility solutions, the Network Code on Demand Response should be swiftly finalised. At national level, Article 13 on redispatching of the Electricity Regulation ((EU) 2019/943) should be fully applied by all Member States to ensure that congestion management becomes market based.

Do you have additional comments?

2000 character(s) maximum

(c) via changes to the current electricity market design:
The existing electricity market design based on marginal pricing (uniform pricing) in a zonal model in combination with portfolio-bidding is the best possible market design for incentivising the deployment of renewables as it ensures the cheapest generation capacities are always activated first. As the future EU energy system will be characterised by a high share of decentralised renewable energy, it would make no sense to centralise the EU power markets by developing a nodal market design with central dispatch. In addition, before proposing further legislation for energy markets, it is critical to complete the EU power market integration by implementing what has already been agreed, i.e., the Clean Energy Package. The comprehensive implementation of measures therein, such as the 70% minimum target for cross-border capacity to be made available for trading and market-based TSO-DSO procurement of flexibility to optimise grid investments would already significantly help to incentivise further renewables uptake. Moreover, EU spot power markets can be further integrated by implementing the Nordic Flow Based Market Coupling and adding pan-European intraday auctions only when recalculation of capacity is guaranteed.

How should the necessary investments in network infrastructure be ensured? Are changes to the current network tariffs or other regulatory instruments necessary to further ensure that the grid expansion required will take place?

4000 character(s) maximum

Changes to regulatory instruments may be necessary to ensure that the necessary grid expansion occurs. This can include reforms that incentivise investment, ensure fair pricing and cost recovery, provide stable and predictable revenue streams and promote the deployment of new technologies and innovation. The introduction of further renewables in the system will also create local congestion at the transmission and distribution grid levels. We believe that the introduction of local flexibility markets will optimise the use of network infrastructure through:

- Better allocation of flexibility resources;
- The creation of price signals to foster investment in flexibility resources;
- Better coordination between TSOs and DSOs for the use of local flexibilities which can alleviate or defer further infrastructure investment.

Subtopic: Limiting revenues of inframarginal generators

During the current energy crisis, temporary emergency measures have been put in place under Council Regulation 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices. One of these measures is the so-called inframarginal revenue cap which limits the realised revenues of inframarginal generators to a maximum of 180 Euros per MWh. The aim of introducing this inframarginal cap was to limit the impact of the natural gas prices on the revenues of all inframarginal generators (new and existing) and to generate revenues allowing Member States to mitigate the impact of high electricity prices on consumers.

The question to be addressed in the context of the reform of the electricity market rules is whether, in addition to relying on long-term pricing mechanisms such as forward markets, CfDs and PPAs, such revenue limitations for inframarginal generators should be maintained.

Do you consider that some form of revenue limitation of inframarginal generators should be maintained?

- Yes
- No

How do you rate a possible prolongation of the inframarginal revenue cap according to the following criteria:

(a) the effectiveness of the measure in terms of mitigating electricity price impacts for consumers

(b) its impact on decarbonisation

(c) security of supply

(d) investment signals

(e) legitimate expectations/legal risks

(f) fossil fuel consumption

(g) cross border trade intra and extra EU

(h) distortion of competition in the markets

(i) implementation challenges

Do you have additional comments?

3000 character(s) maximum

NEMO Committee agreed not to answer this question and therefore the above 5 is not representative of NEMOs position.

We believe the inframarginal revenue cap should not be prolonged after the date agreed upon in the related Council Regulation (i.e., by 30 June 2023). We reckon to see several Member States have already implemented national revenue caps which extend well beyond the jointly agreed deadline. Such revenue caps on inframarginal technologies must not become a structural feature of the EU electricity market design. They lead to multiple negative effects as the recent experience with the existing revenue caps show. Please see below our reactions to the points raised above:

(a) Their effectiveness depends on each Member State's ability to collect revenues and redistribute them to consumers. The mechanism itself does not mitigate the impact of price volatility for consumers.

(b) These government interventions scare away investors, thereby endangering the EU decarbonisation targets.

(c) If not well-designed, namely if the cap is set at a too low threshold for certain generators to cover their short- and long-term costs, there is a severe risk that those would withdraw capacity from the market, putting at risk the security of supply and increasing price volatility with potentially extreme price spikes as a direct consequence.

(d) Similar to b

(e) The existing revenue cap has already been legally challenged by several actors.

- (f)
- (g)
- (h) The agreed EU-wide revenue cap has been differently implemented across the 27 Member States, creating a patchwork of different national interventions across Europe rather than a unified response to the energy crisis. This is distorting fair competition in the markets and should remain a very temporary short-term intervention.
- (i) Several months were necessary to implement the revenue cap in various Member States with some not implementing it at all, showing the complexity of implementation.

Should the modalities of such revenue limitation be open to Member States or be introduced in a uniform manner across the EU?

- Member States
- EU

Do you have additional comments?

2000 character(s) maximum

NEMO Committee agreed not to answer this question.

How can it be ensured that any revenues from such limitations on inframarginal revenues are channelled back to electricity consumers? Should a default approach apply, for example, should these revenues be allocated to consumers proportionally to their electricity consumption?

3000 character(s) maximum

Collected revenues should be channelled back only to vulnerable end-consumers. In addition, an incentive for demand reduction should be included in such an aid scheme.

Alternatives to Gas to Keep the Electricity System in Balance

Short-term markets enable trading electricity close to the time of delivery, covering day-ahead, intraday and balancing timeframes. Well-functioning short-term electricity markets guarantee that the different assets are used in the most efficient manner – this is key to deliver the lowest possible electricity prices to consumers. Short-term markets should therefore deliver relevant price signals reflecting locational, time-related and scarcity aspects: this will ensure the adequate reaction of generation and demand. Even if an increasing share of generation were covered by long term contracts such as PPAs or CfDs (cf. the sections above), the short-term markets would remain key to ensure efficient dispatch. The short-term markets also ensure efficient exchanges of electricity across borders.

Well-functioning short-term markets require healthy competition between market participants so that they are incentivised to bid at their true cost and regulators have the necessary tools to detect any kind of

abusive or manipulative behaviour. Demand response, storage and other sources of flexibility must be put in a situation where they can compete effectively so that the role of natural gas in the short-term market to provide flexibility is progressively reduced, which will bring multiple benefits including lower electricity prices for consumers. To ensure this, targeted changes to the functioning of short-term markets could be envisaged, which could include:

Incentivising the development of flexibility assets

The Commission together with ACER has started the work on new rules to further support the development of demand response, including rules on aggregation, energy storage and demand curtailment, and address remaining regulatory barriers.

Adapt incentives in the System operators tariff design: The Electricity Regulation and Directive already give the possibility for system operators to procure flexibility services including demand response. However, in most Member States, the current regulatory framework treats capital expenditures (CAPEX) of system operators different from operational expenditures (OPEX), resulting in a bias in detriment of investments by system operators concerning the operation of their network. An alternative to this approach is a regulatory framework based on overall total expenditure (TOTEX), including capital expenditures and operational expenditures, which would allow the system operators to choose between operational expenditures and capital expenditures, or an efficient mix of both, to operate their system efficiently without bias for a certain type of expenditure. This would incentivise system operators to procure further flexibility services, and in particular demand response, which should be a key enabler for greater renewable integration.

Using sub-meter data for settlement and observability: The deployment of smart meters as envisaged in the Electricity Directive is delayed in several Member States. In addition, smart meters do not always provide the level of granularity required for demand response and energy storage. In these situations, it should thus be possible for system operators to use sub-meter data (incl. from private sub-meters) for settlement and observability processes of demand response and energy storage, to facilitate active participation in electricity markets (see also section “*Adapting metering to facilitate demand response from flexible appliances*” in the section on “**Better consumer empowerment and protection**”). The use of sub-meter data should be accompanied by requirements for the sub-meter data validation process to check and ensure the quality of the sub-meter data. Access to dynamic data of electricity consumed (and injected back to the grid) notably from renewable energy sources helps increasing awareness amongst the consumers and allows shifting demand towards renewable electricity.

Developing new products to foster demand reduction and shift energy at peak times: To foster demand reduction and energy shifting (through demand response, storage and other flexibility solutions) at peak times, a peak shaving product could be defined and considered as an ancillary service that could be bought by system operators. Such a product could be auctioned a few weeks/months ahead (with a capacity payment) and activated at peak load (with an energy payment), considering renewables generation, therefore contributing to phasing out gas plants from the merit order, and contributing to lowering the price. Demand reduced could also be shifted to another point in time, outside of peak times. This would incentivize flexibility when fossil fuel capacity is needed the most in the system. It would be important to ensure such a product is cost effective if implemented over the long term.

Coordinating demand response in periods of crisis: In periods of crisis, it would also be possible to combine the limitations of inframarginal revenues described in the section above with market-based coordinated demand response (reduction and/or shifting) in times of peak prices or peak load. The aim would be to reduce the market clearing price and fossil fuel consumption.

Improving the efficiency of intraday markets

Shifting the cross-border intraday gate closure time closer to real time: Intraday trade is a key tool to integrate renewable energy sources and balance their variability with flexibility sources up to real time. Wind and solar producers see their forecasts strongly improving close to delivery, and it should be possible to trade shortages and surpluses as close as possible to real time. Setting the cross-border intraday gate closure time closer to real time therefore appears as a meaningful improvement, in combination with maximising the cross-border trade capacity.

Mandating the sharing of the liquidity at all timeframes until the time of delivery: EU day-ahead and intraday electricity markets are geographically coupled, meaning that trades can take place anywhere across Europe if the grid cross-border capabilities are sufficient. This considerably increases the liquidity and therefore the efficiency of the markets. The Commission considers extending these benefits also to intra-border trade between different market operators. This would support competition development and facilitate market participants to balance their positions - a key aspect for integrating further variable renewables.

Do you consider the short-term markets are functioning well in terms of:

	Yes	No
(a) accurately reflecting underlying supply/demand fundamentals	<input checked="" type="radio"/>	<input type="radio"/>
(b) encompassing sufficiently liquidity	<input checked="" type="radio"/>	<input type="radio"/>
(c) ensuring a level playing field	<input type="radio"/>	<input type="radio"/>
(d) efficient dispatch of generation assets	<input checked="" type="radio"/>	<input type="radio"/>
(e) minimising costs for consumers	<input checked="" type="radio"/>	<input type="radio"/>
(f) efficiently allocating electricity cross-border	<input checked="" type="radio"/>	<input type="radio"/>

Do you see alternatives to marginal pricing as regards the functioning of short-term markets in terms of ensuring efficient dispatch and as regards the determination of cross border flows?

- Yes
- No

Do you have additional comments?

2000 character(s) maximum

The wholesale electricity markets' price formation mechanism is based on marginal pricing, ensuring the cheapest generation capacities are always activated first, and so, demand is always met at the lowest

possible cost. This mechanism gives investment signals in new clean technologies and allows power generators to cover their costs, eventually ensuring security of supply. Marginal pricing guarantees the best resources' allocation mechanism, in terms of their cost and efficiency: it activates the most economic and environmental efficient resources and delivers electricity where and when most needed, even across borders. Such mechanism creates dispatch signals that allow the deployment of most cost-efficient resources, such as renewables and also flexibility assets. Further, marginal pricing has strengthened the solidarity principle among Member States, flowing energy where it is most needed. So far, alternative pricing models, which can provide a resources allocation, which is as much cost-efficient as marginal pricing, do not exist.

In addition, another proposal about market design configurations consists of substituting the European Day-Ahead auction following a pay-as-clear model based on marginal pricing with an alternative market set up – pay-as-bid, as implemented on the Intraday continuous market. If the pay-as-bid mechanism was applied in the Day-Ahead market, players would try to anticipate the market clearing price and bid above their marginal costs in order to maximize their profits. Hence, the power generation units' activation priority would be based on the traders' ability to best forecast the market price, instead of on their economic and environmental efficiency. Therefore, a shift from marginal pricing would generate negative consequences but not lower energy prices.

There is abundant evidence that shows that marginal pricing is the most efficient pricing mechanism. [references are included in the attachment to this reply]

How can the EU emission trading system and carbon pricing incentivize the development of low carbon flexibility and storage?

3000 character(s) maximum

Do you consider that the cross-border intraday gate closure time should be moved closer to real time (e.g. 15 minutes before real time)?

- Yes
- No

Do you have additional comments?

2000 character(s) maximum

Market participants should be allowed to trade as close to real time as possible in order to be able to balance their needs.
This would support the integration of RES and DSR in the short-term markets and reduce balancing costs.

Do you consider that market operators should share their liquidity also for local markets that close after the cross-border intraday market?

- Yes
- No

What would be the advantages and drawbacks of sharing liquidity in local markets after the closure of the cross-border intraday market?

2000 character(s) maximum

Would a mandatory participation in the day-ahead market (notably for generation under CfDs and/or PPA's) be an improvement compared to the current situation?

- Yes
- No

What would be the advantages and drawbacks of such an approach?

2000 character(s) maximum

In general, participation of subscribers to PPAs and CfDs in the short-term markets is welcome as it increases the liquidity and transparency of the DA market.

However, NEMOs believe that the question is unclear: e.g would mandatory participation in the DA markets exclude participation in the ID markets?

What would be the advantages and drawbacks of having further locational and technology-based information in the bidding in the market (for example through information on the composition of portfolio, technology-portfolio bidding or unit-based bidding)?

2000 character(s) maximum

There are examples of inefficient dispatch of generation because of lack of locational signals, hence internal congestion is not identified.

Potentially there is merit in adding locational signals to the existing market design. Locational information can also help to identify physical congestions which should be removed by TSOs. Otherwise, a BZ review would be triggered to ensure that BZs are more reflective of congestion constraints.

What further aspects of the market design could enhance the development of flexibility assets such as demand response and energy storage?

2000 character(s) maximum

In particular, do you think that a stronger role of OPEX in the system operator's remuneration will incentivize the use of demand response, energy storage and other flexibility assets?

- Yes
- No

Do you consider that enabling the use of sub-meter data, including private sub-meter data, for settlement/billing and observability of demand response and energy storage can support the development of demand response and energy storage?

- Yes
- No

Do you consider appropriate to enable a product to foster demand reduction and shift energy at peak times as an ancillary service, aiming at lowering fuel consumption and reducing the prices?

- Yes
- No

Do you consider that some form of demand response requirements that would apply in periods of crisis should be introduced into the Electricity Regulation?

- Yes
- No

Do you see any further measure that could be implemented in the shorter term to incentivize the use of demand response, energy storage and other flexibility assets?

- Yes
- No

If so, what would that be?

2000 character(s) maximum

Yes, there are several measures that could incentivise more demand side flexibility in the short- and mid-term, namely: a) financial incentives for flexibility assets (rebates and subsidies), b) improved data management and c) education and awareness-raising.

In this context, we would like to highlight that Member States need yet to fully implement the Clean Energy Package. The CEP already sets the pace for an improved approach to congestion management, favouring market-based solutions as well as market-based flexibility procurement. Still, its full implementation is lagging behind in several Member States which is why many of the positive effects cannot be observed yet. This applies in particular to the transposition of Article 32 of the Electricity Directive ((EU) 2019/944) into national legislation which has been insufficient in several Member States. As the article mandates DSOs to consider alternative options to grid investments, such as market-based flexibility procurement, a push to further implement these rules would foster the development of local flexibility markets and will create the necessary price signals to incentivise the grid-oriented use of demand response, energy storage and other flexibility assets. This will help to reduce the overall cost of the energy transition for European consumers and taxpayers.

Finally, to increase the deployment of flexibility solutions, the Network Code on Demand Response should be swiftly finalized.

Do you have additional comments?

2000 character(s) maximum

We would like to stress two specific aspects:

1. Production assets and flexible demand should utilise their flexibility and the market should consequently create incentives to develop and enable dynamic tariffs for final consumers, including households. To ensure minimum protection for end consumers, hybrid contracts, like the ones proposed in the present consultation paper, would be welcome. It is equally important to ensure that retail consumers in particular are educated so that they can benefit from these contracts.
2. Locational flexibility is key to help the grid to alleviate local (e.g. DSO level) congestion. TSOs and DSOs should purchase local flexibility on the free markets, on a commercial basis. It is also key to ensure that local flexibility markets are linked to wholesale markets.

Do you consider the current setup for capacity mechanisms adequate to respond to the investment needs as regards firm capacity, in particular to better support the uptake of storage and demand side response?

- Yes
 No

If not, what changes would you consider necessary in the market design to ensure the necessary investments to complement rising shares of renewables and to better align with the decarbonisation targets?

4000 character(s) maximum

Do you have additional comments?

4000 character(s) maximum

We believe that the current setup allowing each Member State to design its own capacity mechanism (subject to approval by the European Commission) seems to be oriented towards lending support to fossil-fuel based production assets rather than to incentivise the development of DSR and storage. CRMs should be permissible, however, ideally only as mechanisms of last resort which are only activated when strictly necessary and are eliminated once they are no longer required. This in turn would ensure that old power plants are mothballed while DSR and storage are being allowed to develop.

Do you see a benefit in a long-term shift of the European electricity market to more granular locational pricing?

- Yes
 No

Do you have additional comments?

3000 character(s) maximum

NEMOs and TSOs are already implementing key projects that are based on the current design and that will improve the granularity of information (e.g. through flow based market coupling)and therefore support maintaining the current design.

Better Consumer Empowerment and Protection

Union legislation recognizes that adequate heating, cooling and lighting, and energy to power appliances are essential services. The European Pillar of Social Rights includes energy among the essential services which everyone is entitled to access.

Union legislation also aims to deliver competitive and fair retail markets, as well as possibilities to reduce energy costs by investing in energy efficiency or in renewable generation thereby putting consumers at the heart of the energy system. The energy crisis has shown the importance of delivering on this ambition but also weaknesses in the existing system. For that reason, there is scope to further reinforce the Electricity Directive to deliver the needed consumer empowerment and protection, and avoid that consumers are powerless in the face of short-term energy market movements.

Increasing possibilities for collective self-consumption and electricity sharing

Digitalisation – particularly when applied to metering and billing – facilitates energy sharing and collective self-consumption. Collective self-consumption means customers are able to invest in offsite generation and become “prosumers” reducing their bills just as if the renewable energy production installation were installed on their own roof. Consumers can then avoid buying gas produced electricity which leads to real decoupling.

The practical uses are potentially very significant – for example, families can share energy among the different members located in different parts of the country and farmers can install renewable generation on one part of their farm and use the energy in their main buildings even if located a distance away. Another clear use case is municipalities and housing associations can include off-site energy as part of social housing, directly addressing energy poverty.

Member States such as Belgium[1], Austria, Lithuania[2] Luxembourg, Portugal and others[3] have shown that it is possible to implement this model in practice quickly and at reasonable cost for consumers to develop energy sharing and collective self-consumption.

Customers should be in a position to deduct the production of offsite renewable generation facilities they own, rent, share or lease from their metered consumption and billed energy. Specific provisions could allow energy poor and vulnerable customers to be given access to this shared energy, for example produced within municipalities, or by investments of local governments.

Energy sharing should be treated in a non-discriminatory way compared to normal suppliers and producers. This means costs for other consumers are not unduly increased. Production and consumption has to happen at the same market time unit. Energy sharing be possible where there are no transmission

constraints for wholesale trade – that is within price zones.

Adapting metering to facilitate demand response from flexible appliances

The roll out and uptake of demand response has been slower than desired. One of the reasons for this has been the very complex relationships between suppliers and aggregators. The greatest demand response possibilities often come from individual appliances – in particular behind-the-meter storage, heat pumps and electric vehicles. Enabling dedicated suppliers and aggregators to offer contracts covering just these appliances could help both speed the roll out of these appliances and increase the amount of demand response in the system. The Electricity Directive already provides that customers are entitled to more than one supplier, but this has been seen to require a separate connection point increasing costs for customers significantly.

Therefore, there is a case for adapting the current provisions of the Electricity Directive to clarify that customers who wish to have the right to have more than one meter (i.e. a sub-meter) installed in their premises and for such sub-metered consumption to be separately billed and deducted from the main metering and billing.

Better choice of contracts for consumers

In many Member States as the crisis unfolded, the availability and diversity of contracts became more limited, making it increasingly difficult for customers to obtain fixed price contracts in many Member States. This was also often insufficiently clear to customers who believed that they had entered into fixed price contracts, alongside a wider lack of understanding of consumer rights.

There are also few “hybrid” or “block” contracts available. Such contracts combine elements of fixed price and dynamic/variable prices giving consumers certainty for a minimum volume of consumption but allowing prices to vary above that amount.

Customers with variable price contracts can find budgeting more difficult, particularly consumers on low incomes or vulnerable consumers. The effect of such contracts is that the cost of managing the risk of wholesale price increases is faced exclusively by customers and not by suppliers. On the other hand, variable prices – at least for the energy where the customer is effectively able to control consumption - can incentivise a more efficient use of energy.

While suppliers above a certain size are obliged to offer dynamic price contracts, which were less in demand during the crisis, the legislation is silent on fixed price contracts. This should be rebalanced to allow consumers a choice between flexible or fixed price contracts. Fixed price contracts could still be based on time of use to maintain incentives to reduce demand at peak hours. Suppliers would remain free to determine the price themselves.

Suppliers often argue that it is difficult to offer attractive fixed price offers for two reasons - firstly if they do not have access to longer term markets which allow them to hedge their risks. These issues are addressed in the sections on forward markets above. Secondly, suppliers argue that it is difficult to offer fixed price fixed term contracts because consumers are allowed to switch supplier (i.e. leave the fixed price fixed term contract) - leaving the supplier with additional costs. Currently, termination fees for fixed price fixed term contracts are allowed – but only if they are proportionate and if they reflect the direct economic loss to the supplier. Without abandoning these principles, it could be considered allowing regulators or another body to

set indicative fees which would be presumed to comply with these obligations.

Strengthening consumer protection

A) Protecting customers from supplier failure

Increased supplier failure during the crisis, generally because of a lack of hedging, has been observed in several Member States. This has often resulted in all consumers facing higher bills because of socialisation of some of the failed suppliers' costs.[4] Customers of the failed suppliers are also faced with unexpected costs. Obliging suppliers to trade in a prudential way may involve some additional costs, but would reduce the risks that individual consumers face and also avoid socialisation of the costs of suppliers with poor business models. This is separate from, but complementary to, prudential rules applicable to energy companies on financial markets where the Commission has also taken action. At the same time, we recognise such obligations need to take account of the difficulties smaller suppliers face in hedging, particularly in smaller Member States (see also section on "*Forward Markets*" above).

All Member States have implemented a system of supplier of last resort, either de jure or de facto. However, the effectiveness of these systems varies and EU framework is very vague without clarifying the roles and responsibilities of the appointed supplier and the rights of consumers transferred to the supplier of last resort[5].

B) Access to necessary electricity at an affordable price during crises

The Electricity Directive includes specific provisions for energy poor and vulnerable customers, which are part of a broader policy framework to protect such consumers and help them overcome energy poverty.[6] However, the crisis has shown that affordability of energy can be a major issue not only for these groups, but also for wider sections of population. Member States can apply price regulation for energy poor and vulnerable households. Council Regulation (EU) 2022/1854 on an emergency intervention to address high energy prices allows for below cost regulated prices for all households and for SMEs on a temporary basis and subject to clear condition. In particular, such measures can only cover a limited amount of consumption and must retain an incentive for demand reduction. One of the lessons of the crisis is that the objective of reducing energy costs for consumer should not come at the expense of encouraging excess demand and fossil fuel lock-in, or fiscal sustainability. However, some form of safeguard to allow Member States to intervene in retail price setting might be needed for the future during a severe crisis, such as the current one. This could ensure that citizens have access to the energy they need, including ensuring that certain consumers have access to a minimum level of electricity at a reasonable price, regardless of the situation in the electricity markets, while avoiding subsidies for unnecessary consumption, such as heating of swimming pools[7]. This would also help ensure that when making large purchases, customers would take into account the full cost of energy. As the objective is to mitigate the impact of high prices during crisis periods, it would seem sensible to develop specific criteria to define a crisis in these terms. One alternative would be to link the Electricity Risk Preparedness Regulation, however this is focused on system adequacy, system security and fuel security, rather than mitigating the impacts of a crisis on users. Fossil fuel lock-in, however, needs to be avoided.

[1] Energiedelen en persoon-aan-persoonverkoop | VREG

[2] Lithuanian consumers to access solar parks under CLEAR-X project

[3] Spain, Croatia, Italy ,France.

[4] For example, network charges owed to TSOs and DSOs and potentially imbalance costs.

[5] In particular, we would consider confirming that customers transferred to Supplier of Last Resort retain the right to change supplier within normal switching times (i.e. customers cannot be required to stay with the supplier of last resort for a fixed period); clarifying that the supplier of last resort must be appointed based on an open and transparent procedure; right of consumers to remain with supplier of last resort for reasonable periods of time.

[6] The Energy and Climate Governance Regulation together with the 2020 recommendation on Energy poverty provide a more structural framework to address and prevent energy poverty. The Fit for 55 legislative package further reinforces this framework through other sectoral legislation, through the revision of the Energy Efficiency Directive and the Energy Performance of Buildings Directive and through setting up of the Social Climate Fund to address the impact of the ETS extension to buildings and transport.

[7] This is also in line with the Recommendation on the economic policy of the euro area which called for a two-tier energy pricing model, whereby consumers benefit from regulated prices up to a certain amount

Energy sharing and demand response

Would you support a provision giving customers the right to deduct offsite generation from their metered consumption?

- Yes
- No

If such a right were introduced:

(a) Would it affect the location of new renewable generation facilities?

- Yes
- No

(b) Should it be restricted to local areas?

- Yes
- No

(c) Should it apply across the Member State/control/zone?

- Yes
- No

Would you support establishing a right for customers to a second meter/sub-meter on their premises to distinguish the electricity consumed or produced by different devices?

- Yes
- No

Offers and contracts

Would you support provisions requiring suppliers to offer fixed price fixed term contracts (ie. which they cannot amend) for households?

- Yes
- No

If such an obligation were implemented what should the minimum fixed term be?

at most 1 choice(s)

- (a) less than one year
- (b) one year
- (c) longer than one year
- (d) other

Cost reflective early termination fees are currently allowed for fixed price, fixed term contracts:

	Yes	No
(a) Should these provisions be clarified?	<input type="radio"/>	<input type="radio"/>
(b) If these provisions are clarified should national regulatory authorities establish ex ante approved termination fees?	<input type="radio"/>	<input type="radio"/>

Do you see scope for a clarification and possible stronger enforcement of consumer rights in relation to electricity?

- Yes
- No

Prudential supplier obligations

Would you support the establishment of prudential obligations on suppliers to ensure they are adequately hedged?

- Yes
- No

Would such supplier obligations need to be differentiated for small suppliers and energy communities?

- Yes
- No

Should the responsibilities of a supplier of last resort be specified at EU level including to ensure that there are clear rules for consumers returning back to the market?

- Yes
 - No
-

Would you support including an emergency framework for below cost regulated prices along the lines of the Council Regulation (EU) 2022/1854 on an emergency intervention to address high energy prices, i.e. for households and SMEs?

- Yes
- No

Do you have additional comments?

2000 character(s) maximum

Enhancing the Integrity and Transparency of the Energy Market

Never has there been as much of a need as today to enhance the public's trust in energy market functioning and to protect EU effectively against attempts of market manipulation.

Regulation (EU) 1227/2011 on wholesale market integrity and transparency (REMIT) was designed more than a decade ago to ensure that consumers and other market participants can have confidence in the integrity of electricity and gas markets, that prices reflect a fair and competitive interplay between supply and demand, and that no profits can be drawn from market abuse.

In times of extra volatility, external actors' interference, reduced supplies, and many new trading behaviours, there is a need to have a closer look as to whether our REMIT framework is robust enough. In addition, recent developments on the market and REMIT implementation over last decade have shown that REMIT and its implementing rules require an update to keep abreast. The wholesale energy market design has evolved over the past years: new commodities, new products, new actors, new configurations and not all data is effectively reported. The existing REMIT framework is not fully updated to tackle all new challenges, including enforcement and investigation in the new market realities.

Current experience, including a decade of REMIT framework implementation (REMIT Regulation from 2011 and REMIT Implementing Regulation from 2014) and functioning show that REMIT framework may require

improvements to further increase transparency, monitoring capacities and ensure more effective investigation and enforcement of potential market abuse cases in the EU to support new electricity market design. The following areas could be considered in this context:

- The alignment of the ACER powers under REMIT with relevant powers under the EU financial market legislation including relevant definitions, in particular the definitions of market abuse (insider trading and market manipulation);
- The adaptation of the scope of REMIT to current and evolving market circumstances (new products, commodities, market players);
- The harmonisation of the fines that are imposed under REMIT at national level and the strengthening of the enforcement regime of certain cases with cross-border elements under REMIT;
- Increasing the transparency of market surveillance actions by improved communication of the market-related data by ACER, regulators and market operators.

What improvements into the REMIT framework do you consider as most important to be addressed immediately?

4000 character(s) maximum

We believe the REMIT framework is a key tool to prevent and detect market abuse in European wholesale energy markets and adds significant value to the functioning of the Internal Energy Market overall. REMIT works well and has evolved significantly since its formal adoption in 2011. An extensive body of guidance has been developed and a complex and robust data collection and market surveillance system has been put in place which is overall fit for purpose. Against this background, Europex would like to insist that future improvements build constructively on this legacy and provide regulatory stability without further increasing the level of complexity. This should be ensured by a close dialogue between all involved stakeholders.

Monitoring of transmission capacities

One aspect that we believe needs urgent regulatory attention is reaching more clarity on the consistent and systematic monitoring of cross-zonal transmission capacity. Transmission capacities are paramount for price formation and even a minor capacity reduction in one Market Time Unit (MTU) can lead to a major price impact on the market. Withholding transmission capacity is explicitly mentioned in Recital (13) of REMIT and in subsequent ACER Guidance as a form of market manipulation. In practice, however, there is no clarity on which entity is responsible for monitoring if the transmission capacity provided in every MTU corresponds to the actual available capacity and is not unduly limited. This means that there likely exist breaches of REMIT in the provision of transmission capacities, e.g., through illegitimate capacity withholding, left undetected and with a significant impact on price formation.

Providing actual available transmission capacity should be explicitly covered in REMIT and the monitoring of it should be clarified. We find that the 70% minimum target for transmission capacity made available for cross-zonal trade is not an appropriate indicator and proactive monitoring is urgently required. Our experience from conducting day-to-day market surveillance shows this is a real problem which has a large market impact and requires urgent legislative and regulatory attention. To this end, a clear definition which explicitly includes the responsible entity for transmission capacity monitoring should be included in the REMIT review, not only limited to a recital but in the main body of the legal text. Further technical details

could be clarified in the REMIT Implementing Regulation and additional ACER Guidance. In the short term, further harmonisation among NRAs could partly improve this issue within the existing legal framework. However, ultimately ACER is best positioned to monitor available cross-zonal transmission capacity at European level.

Extension to additional products

In principle, we support the current scope of REMIT “wholesale energy products”, which are defined as “electricity and natural gas”, as they represent the key grid-bound commodity markets in Europe. As for a possible inclusion of other gases, like hydrogen, at this moment we believe that the market is not sufficiently mature yet to require such an inclusion. Nevertheless, for market actors to prepare for a possible future inclusion into REMIT, a reliable outlook and timeline would be welcome.

Finally, we do not support an extension to other non-grid bound commodities, such as emission allowances. Given that the latter are financial instruments under the Markets in Financial Instruments Directive (MiFID), they are already comprehensively covered by financial regulation, including the Market Abuse Regulation (MAR), among others, and their inclusion into REMIT would create an overlapping framework requiring a total revision of the system to accommodate duplicate obligations. In addition, the interdependence between gas and electricity on the one hand and EUAs on the other hand is limited and will be even more so with the scheduled expansion of the EU ETS to new sectors.

With regards to the harmonization and strengthening of the enforcement regime under REMIT: what shortcomings do you see in the existing REMIT framework and what elements could be improved and how?

4000 character(s) maximum

Improved data and best practice sharing between energy, financial and competition regulators would be beneficial for the efficiency of REMIT and European energy market surveillance more generally. In this regard, we were pleased to see the creation of a Joint ACER-ESMA Task Force in October 2022 as this cooperation can improve data and intelligence sharing without creating duplicative reporting obligations for market participants and other stakeholders.

In addition, the relationship between ACER and the Energy Community should be clarified and upgraded and REMIT should become fully applicable to all Contracting Parties. We explicitly support central transaction, fundamental and inside information data collection and data monitoring by ACER as well as the coordination of cross-border investigations between EU Member States and Contracting Parties and directly between Contracting Parties. This is especially relevant as the Energy Community is moving ever closer to full market integration with the Internal Energy Market and the same market integrity and transparency standards should apply across the common market.

Fair competition between Inside Information Platforms (IIPs) should be ensured. Currently, ENTSO-E, ENTSG as well as individual TSOs operate IIPs which are not in line with the principle of a competitive level playing field as they can socialise their cost of offering such as for inside information disclosure services. Hence, if those services are offered to market participants, including TSOs in the case of the ENTSO, explicit cost- reflecting fees including public price lists should be required. This would help to prevent further endanger the level playing field with the well-established inside information platforms set up by private companies.

Additionally, we believe that more transparency regarding REMIT enforcement decisions is needed.

Publishing detailed case descriptions (also) in English will improve monitoring by Persons Professionally Arranging Transactions (PPATs) and compliance by market participants.

As also stated in our response to Q1, we find that clearly defining who is responsible for monitoring cross-zonal transmission constraints will improve enforcement. Transmission capacities are paramount for price

formation and even a minor capacity reduction in one Market Time Unit (MTU) can lead to a major price impact on the market. Even though withholding transmission capacity is explicitly mentioned in Recital (13) of REMIT and in subsequent ACER Guidance as a form of market manipulation, in practice we have seen that there is no clarity on which entity is responsible for monitoring if the transmission capacity provided in every MTU corresponds to the actual available capacity and is not unduly limited. This means that there likely exist breaches of REMIT in the provision of cross-zonal transmission capacities, e.g., through illegitimate capacity withholding, left undetected and with a significant impact on price formation. In the short term, further harmonisation and cooperation among NRAs could improve this issue within the existing legal framework. However, ultimately ACER is best positioned to monitor cross-zonal transmission capacity at European level.

With regards to better REMIT data quality, reporting, transparency and monitoring, what shortcomings do you see in the existing REMIT framework and what elements could be improved and how?

4000 character(s) maximum

All envisaged changes to REMIT should be considered from a cost-benefit perspective. Several elements that we believe should be improved within the existing REMIT framework include:

1. Review of REMIT definitions

On the Regulation level (Article 2):

a) Amendment of the definition of “market participant” to include Distribution System Operators (DSOs). In physical power markets DSOs sometimes hold relevant inside information but do currently not have an obligation to disclose them as DSOs are not automatically considered market participants under REMIT. For example, when a grid outage managed by a DSO limits the output from a generating facility, the DSO is the owner of the information but does not have an obligation to disclose it although it is market relevant.

b) In general, clearer definitions of all actors and their responsibilities, would clearly be beneficial for data reporting and market surveillance. This includes, among others, specific definitions for beneficiaries, DMA providers and their clients as well as market participants trading financially settled REMIT wholesale energy products on third country venues. Overall, we strongly support the existing requirement that the ultimate responsibility for REMIT reporting remains with the Market Participants.

On the ACER Guidance level:

a) As demand side flexibility is one of the major instruments in achieving efficient price formation, the relevant market participants should be given guidance on how to remain REMIT compliant.

b) The definition of inside information in the sense of information relating to the unavailability of transmission/generation/consumption assets should be further specified in terms of thresholds. This would provide much needed certainty to market participants on what to report and avoids an unnecessary burden for smaller market players with insignificant small generation assets. The market size and the wholesale energy product concerned shall be decisive for the minimum threshold. An alignment with the thresholds of the Transparency Regulation should be considered.

2. Avoiding double reporting

In our experience, there is still significant work to be done to ensure that all NRAs have access to the data collected by ACER under the current provisions in Article 8. We support efforts to improve the use and

quality of the existing ACER data. This includes the targeted addition of new fields to ensure specific data can be collected in an appropriate way. Two examples of the limitations of the current reportable fields are: (1) there is no means to separately identify the DMA client (where this is visible to the OMP) via a field other than the beneficiary field when that entity is not the reporting market participant (which is not per se 'the beneficiary'), and (2) there is no field to expressly flag that a transaction is an Exchange of Futures for Physicals (EFP) or an Exchange of Futures for Swaps (EFS). At the same time, a detailed cost-benefit analysis should be done regarding the number of fields which assesses whether fields are used effectively. For example, the approach to the population of field 34 (voice brokered) does not seem logical in our opinion.

Regular reporting of data from the electricity balancing market is an important next step in data collection. However, we believe that the process should be consecutive and first the surveillance at TSO level should be properly established, as is the case with other energy wholesale markets.

[the rest of the answer is included in the attachment to this consultation reply]

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