Contribution ID: e440e40e-5dec-4840-9b71-8f83eab480fc
Date: 13/02/2023 16:45:20

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

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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-terms 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 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
-

- Dutch
- (selected) English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
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- Maltese
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- (selected) Company/business
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

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* Surname

Baumholczer

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* Organisation name

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- 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
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
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- Ireland
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- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
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- Papua New Guinea
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Czechia	Lebanon	Saint Helena Ascension and Tristan da Cunha	Zambia
Democratic Republic of the Congo	Lesotho	Saint Kitts and Nevis	Zimbabwe
Denmark	Liberia	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
- [x] f) Energy company with generation assets
- [ ] g) Independent energy supplier with no generation assets
- [ ] h) Company conducting business in the energy sector no 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

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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?

- (x) Yes
- ( ) No

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

2000 character(s) maximum

Renewable PPAs are a means for generators and their off-takers, or customers in the case of CPPAs, to share not only price but also profile, liquidity and numerous other risks depending on the risk appetite of each. Longer term PPAs, of 10-15 years in duration, can be sufficient to enable the deployment of new renewable generation that is already cost competitive.

However, numerous barriers exist today to concluding PPAs including (a) Insufficient supply of new renewable generation due to permitting and grid constraints (b) Not all generators receiving Guarantee of Origin certificates, impacting CPPA and cross border PPAs (c) Government-auctioned CfD structures can ban or crowd out private PPAs (d) Insufficient credit-worthy offtake (e) High uncertainty regarding price and volume risk, exacerbated by recent political and regulatory interventions.

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)
- [x] c) Promoting State-supported schemes that can be combined with PPAs
- [x] d) Supporting the standardisation of contracts

- [ ] e) Requiring suppliers to procure a predefined share of their consumers' energy through PPAs
- [x] f) Facilitating cross-border PPAs

Do you have additional comments?

2000 character(s) maximum

(a) Pooling demand - suppliers already have a role in pooling demand. An alternative approach for Governments pooling supply and demand would be to promote transparent platforms for customers and generators to enter into PPAs. Within those platforms Governments/market participants could consider efficient mechanisms to overcome blockers such as creditworthiness, which is a particular issue for longer term deals and some customer types.
(b) Credit worthiness – The cost of credit reflects the risk of default. This becomes more of a barriers as the contract lengthens. Providing insurance against such risks could potentially be effective. This approach would, however, leave taxpayers exposed in the event of company insolvencies.
(c) State support scheme that can be combined with PPAs – we would welcome EU legislation to ensure 2-sided Cfds, where introduced by Member States, are done so in a way that they are (1) voluntary (2) crowd in rather than crowds out renewable energy investment, for example by allowing partial merchant / CfD investments and potential pathways to fully merchant (3) are designed to maximize system integration, above all by ensuring generators are sufficiently exposed to merchant prices (4) do not ban generators from contracting with any customer but government (5) enable innovation in transmission.
(d) Standard products – market participants are already developing standardized products which will reduce transaction costs and may improve liquidity. We support a continued voluntary approach. We would not welcome prescriptive mandating, as this would likely impact innovation and liquidity.
(f) Facilitating cross-border PPAs – We strongly support this. Priorities should be (1) Ensuring all renewable generation receives the Guarantees of Origin necessary to track and therefore trade power across borders (2) cross-border transmission capacity is made available on longer tenors and (3) standardising the nature of the LTTR on an EU wide basis.

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

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	○	◉
(b) Level playing field between undertakings of different sizes	○	◉
(c) Level playing field between undertakings located in different Member States	○	◉
(d) Increased electricity generation based on fossil fuels	○	◉
(e) Increased costs for consumers	○	◉

Please explain

2000 character(s) maximum

Shell strongly supports an increase in the uptake of PPAs. On the customer side, PPAs put customers directly in charge of their costs, unlike with government allocated CfDs, where overall spot market costs might be smoothed but individual customers have no control over the direct benefits. On the generator side, CPPAs are an important tool to lever in investment by securing long term bankable offtake. However, we would not support mandatory action to increase PPAs, for example hedging requirements on suppliers or large customers. PPAs are a risk sharing tool. Forcing market participants to share risk in a prescribed way risks increasing costs and decreasing liquidity. It also risks crowding out other approaches for generators to sell into the market. Maintaining optionality for market participants is the best means to drive the significant increase in renewable investment required to meet RePowerEU and manage customer price volatility. This can be encouraged via:
(1) Increasing the supply of PPAs through permitting and grid reforms to bring forward new generation and interconnection (2) Ensuring that state support schemes can be combined with PPAs – would welcome EU legislation to ensure 2-sided Cfds where introduced by Member States are done so in a way that they are (a) voluntary (b) crowd in rather than crowds out renewable energy investment, for example by allowing partial merchant / CfD investments and potential pathways to fully merchant (c) are designed to maximize system integration, above all by ensuring generators are sufficiently exposed to merchant prices (d) do not ban generators from contracting with any customer but government (e) enable innovation in transmission. (3) Reforms that enable the conclusion of cross-border PPAs including (a) ensuring all renewable generation receives GoOs necessary to track and trade power across borders (b) transmission capacity made available for longer tenors (c) standardising nature of the LTTRs on an EU wide basis

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?

- (x) Yes
- ( ) No

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

- (x) Yes
- ( ) No

Do you have additional comments?

2000 character(s) maximum

We believe that forward markets in the EU are liquid, especially in the German power market which also acts a reference market for neighbouring Member States. We believe that liquidity is sufficient to mitigate consumers exposure to short-term volatility. However, the forward market is only liquid for up to 3 years which may be sufficient to enable some merchant deployment. In case as generator or customer requires price visibility and certainty over a longer period, it would need to enter into a renewable or corporate PPA.

There are also actions that the EU, ACER and Governments can take to further improve forward market liquidity including (1) standardizing the Long-term Transmission Rights (LTTR) offered on the different borders, as the EU market is still a patchwork rather than fully integrated; (2) maximizing cross-border capacity availability and continuing to build new interconnectors (3) offering longer-term cross-border capacity – up to three years. (4) reforming CfDs to enable more merchant price exposure, as this will encourage forward trading.

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

2000 character(s) maximum

Appetite for forward contracts depends on a number of factors – the cost of technology, electricity market prices, government subsidy schemes, merchant risk appetite from the generator and offtaker demand (including risk appetite and or credit worthiness).

The issues governments can fix are:
Regulatory and policy interventions are two main factors affecting liquidity in forwards markets, as they affect the perceived stability of the regulatory framework and wholesale price forecasts upon which market

participants make decisions. Interventions such as price caps on wholesale spot markets (as they introduce unmanageable price risk) or CfDs granted to renewable developers (as they can reduce the need, or impact the way, generation hedges forward) can significantly decrease or impact the appetite for hedging in forward markets and therefore liquidity and wholesale pricing.

Interest from Spanish retailers to hedge forward a share of their demand need is limited whenever a cap on spot prices is artificially introduced eliminating the price risk. Similarly, in the generation side, CfDs schemes granting a long-term fixed price will have an impact on forward markets: if the CfD requires the generator to sell the power in short term markets it will limit the availability of generators seeking to hedge forward; and if the CfD design requires generators to sell forward, this will likely result in significantly lower forward prices by increasing supply at a point in the forward curve where there may be limited buyers, thus contributing to the liquidity problem. Moreover, this knock-on effect (generated by a regulatory intervention) of artificially reducing forward prices would eliminate any wholesale signal to invest in new capacity.

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 have additional comments?

2000 character(s) maximum

We would not support requiring suppliers to have specific hedging requirements as this could increase costs for consumers (given suppliers would likely need to post collateral), impact market liquidity (if all suppliers were required to source the same and limited number of products) and could impact innovation in market offers.

However, we would support the establishment of prudential obligations on suppliers to ensure they have the right risk management policies and controls in place to manage their financial exposures and reduce the risk of a disordered market exit.

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 additional comments?

2000 character(s) maximum

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

- ◉

Yes

No

In case you have experience with the existing virtual hubs in the Nordic countries, how do you rate this experience?

Do you have additional comments related to the existing virtual hubs in the Nordic countries?

2000 character(s) maximum

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

The most important action the Commission could take to promote forward market liquidity is to complete the internal energy market in the forward timeframe, particular long-term cross-border transmission rights.

In our view, Financial Transmission Rights (FTR) as options are the most efficient cross-border hedging instrument. To increase their liquidity, we see there is need to facilitate at least a certain degree of harmonisation across borders in Europe, mainly in two areas: FTRs as options should be allocated across all EU borders, and it must be ensured that TSOs maximize cross-border capacity availability and that crossborder capacity is financially firm and minimizes the risk to market parties from curtailment.
Harmonising LTTRs across Europe and between bidding zones would likely make it easier and less costly to hedge risk across different bidding zones and would improve liquidity. This would also foreseeably enable for higher liquidity in secondary markets, although we support ACER and the Commission undertaking a review of whether there are any regulatory or contractual barriers (with the FTR design) that prevent secondary trading.

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)?

- (x) Yes
- ( ) No

Do you have additional comments?

2000 character(s) maximum

Two-way CfDs are one mechanism, alongside others such as PPAs, forward hedging or direct equity investments in projects, which all should be encouraged but on a voluntary basis.

We support this on a voluntary basis only. Mandatory use of two-way CfDs would crowd out other mechanisms which share risk and lever in investment, particularly CPPAs which puts customers directly in charge of their costs. We further note that in the context of RePowerEU, it would be clearly detrimental for 70% of generation capacity to be exempt from merchant price signals. Unreformed 2-sided CfDs undermine the integration required to smooth out price spikes, because the 100% price protection they provide, mutes the price signals required to balance supply and demand: there is little incentive to produce electricity when and where it is needed most, or to integrate it with storage. CfDs also distort bidding in the short-term intraday and balancing markets, increasing balancing costs. We ask that EU legislation is introduced to ensure that 2-sided CfDs are a) voluntary (b) crowd in rather than crowds out renewable energy investment, for example by allowing partial merchant / CfD investments and potential pathways to fully merchant (c) are designed to maximize system integration, above all by ensuring generators are sufficiently exposed to merchant prices (d) do not ban generators from contracting with any customer but government (e) enable innovation in transmission.

No power generation technologies should be subject to mandatory 2-sided CfDs. It would restrict technological innovation and deployment to larger developers, increase supply chain bottlenecks and could lead to boom and bust based on government schedules and pricing.

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

We support this on a voluntary basis only.

Mandatory use of two-way CfDs would crowd out other mechanisms which share risk and lever in investment, particularly CPPAs which puts customers directly in charge of their costs. We further note that in the context of RePowerEU, it would be clearly detrimental for 70% of generation capacity to be exempt from merchant price signals. Unreformed 2-sided CfDs undermine the integration required to smooth out price spikes, because the 100% price protection they provide, mutes the price signals required to balance supply and demand: there is little incentive to produce electricity when and where it is needed most, or to integrate it with storage. CfDs also distort bidding in the short-term intraday and balancing markets, increasing balancing costs.

We ask that EU legislation is introduced to ensure that 2-sided CfDs are (a) voluntary (b) crowd in rather than crowds out renewables investment, for example by allowing partial merchant / CfD investments (c) are designed to maximize system integration, above all by ensuring generators are sufficiently exposed to merchant prices (d) do not ban generators from contract with any customer but the government.

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

2000 character(s) maximum

No power generation technologies should be subject to mandatory 2-sided CfDs. It would restrict technological innovation and deployment to larger developers, increase supply chain bottlenecks and could lead to boom and bust based on government schedules and pricing.

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

Unreformed 2-sided CfDs undermine the integration required to smooth out price spikes, because the 100% price protection they provide mutes the price signals required to balance supply and demand: there is little incentive to produce electricity when and where it is needed most, or to integrate it with storage. CfDs also distort bidding in the short-term intraday and balancing markets, increasing balancing costs. Current distortions include generators

a) Locating where they can produce the most power (for example South-facing solar) not when and where the power is needed (for example West facing Solar which tends to correspond better with afternoon demand).

b) Generating based on CfD compensation, not in response to high demand: when demand and therefore spot prices are high, generators may curtail production given they are required to pay back the government, exacerbating rather than solving supply shortages. Likewise generators may still bid into markets even when demand is extremely low in order to receive their CfD payment, leading to excess generation which requires costly balancing action from System Operators.

c) Failing to integrate with hydrogen and batteries -the price protection offered by the 2-sided CfD provides little incentive to capture power when demand and therefore spot market prices are low and sell when demand and therefore prices are high.

d) Failing to deliver system services such as frequency control - CfD value typically greater than ancillary services revenue, so CfD generators tend not to participate.

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

We ask that EU legislation is introduced to ensure that 2-sided CfDs are a) voluntary (b) crowd in rather than crowds out renewable energy investment, for example by allowing partial merchant / CfD investments and potential pathways to fully merchant (c) are designed to maximize system integration, above all by ensuring generators are sufficiently exposed to merchant prices (d) do not ban generators from contracting with any customer but government (e) enable innovation in transmission.

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

The mechanism can be designed to ensure that costs and pay-outs are channeled back to consumers. However, we note that a customer cannot actually control its costs under a two-sided CfD, as they have no control over whether they are paying or receiving money, with their costs will be determined by the Government mechanism. This is in contrast to the direct risk-sharing benefits of a PPA.

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

In the context of RePowerEU, it would be clearly detrimental for 70% of generation capacity to be exempt from merchant price signals. As such, a CfD should not be assigned for the full lifetime of an asset, nor should a CfD cover all price risk for the generator at any point during its life.

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

Yes, greater market exposure is required to ensure system integration.

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

Moving existing generation to mandatory 2-sided CfDs would require retrospectively breaking existing contracts, creating investor uncertainty which will increase costs and reduce renewable deployment. It also undermines the functioning of the spot market if all generators are immune from its signals.

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					◉
Ability of national regulators/governments to accurately define the level of the price levels envisaged in these contracts					◉
Locking in existing capacity at excessively high price levels determined by the current crisis situation					◉
Impact on the efficient short-term dispatch					◉

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

Market design should support the evolution and coexistence of existing frameworks which help producers and consumers smooth out power price volatility. Examples include onsite batteries and renewables; forward hedging, PPAs between generators or traders and demand, government-led CfD or direct equity investments in projects. The expanded use of PPAs would help de-risk volatile power prices for both generators and consumers.
A simple, “no regrets” policy would be to ensure all renewable power produced can be certified with Guarantees of Origin, including from subsidised sources. Without GoOs, it is impossible to track the production and sale of green energy, thereby hampering the development of both corporate and cross-border PPAs.
Mechanisms allowing home energy consumers to benefit from longer term PPAs should also be considered, e.g. removing the ban on 2 year+ tariffs, facilitating energy communities to contract directly with generators and investigating hedging requirements for utilities.
2-sided CfDs are another potential mechanism to reduce spot market volatility for consumers and help de-risk power price for generators. However, government allocated 2-sided CfDs have some drawbacks. For generators, 2-sided CfDs protect against price risk (the risk of increasingly low wholesale prices as greater

renewables penetrate the system), but not against volume risk: if the wind isn't blowing or the sun isn't shining, generators do not get paid. For consumers, 2-sided CfDs partially dampen high spot prices by capping the proportion of high spot markets a renewable generator can secure but will not protect from the bulk of spot market volatility, given this driven by the need for dispatchable generation such as gas or hydrogen when weather-dependent renewables are unable to generate.
Furthermore, unreformed 2-sided CfDs undermine the integration required to smooth out price spikes because the 100% price protection they provide allows generation.

Subtopic: Accelerating the deployment of renewables

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	◉	○
In the implementation of the current EU legislation, including by developing network codes and guidelines	◉	○
Via changes to the current electricity market design	◉	○
Other	◉	○

If yes, please specify

2000 character(s) maximum

Shell supports the Commission’s proposals in RePowerEU and in recent temporary emergency legislation amending the Renewable Energy Directive, to (i) ensure in individual legal cases, renewables and grid deployment and upgrade are considered in the “over-riding public interest” (ii) limiting the length of the permitting procedure for all rooftop solar installations to a maximum of 3 month (iii) requiring Member States to designate fast-track renewables “go to areas”, in line with their NCEPs (iv) simplifying planning and permitting even in non-go-to areas. This must be matched with (v) greater anticipatory investment in energy networks, both on and offshore, given that congested networks are already making it costly and difficult to export green power or charge electric vehicles.

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

Shell supports greater longer term network planning and anticipatory investment to secure those plans.

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

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

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

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	◉	○
(b) encompassing sufficiently liquidity	◉	○
(c) ensuring a level playing field	○	○
(d) efficient dispatch of generation assets	◉	○
(e) minimising costs for consumers	◉	○
(f) efficiently allocating electricity cross-border	◉	○

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

ACER concluded that Europe’s integrated short term power markets based on marginal pricing saved consumers 34 billion euros in 2021 by ensuring power flowed efficiently from areas of lower demand / lower prices to higher demand / higher prices.

The spread between high and low prices also stimulated investment in back-up generation, storage, or demand-side response. As ACER concluded, such solutions will be increasingly necessary to balance the fluctuating generation patterns of wind and solar power plants.

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)?

- (x) Yes
- ( ) No

Do you have additional comments?

2000 character(s) maximum

Yes, it would ensure the market price of power better reflects its real-time value, which will lead to improve system integration.

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
- (x) No

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

2000 character(s) maximum

As ACER concluded, near-term markets are efficiently functioning and additional intervention could lead to negative impacts.

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

We do not believe additional locational information or unit based bidding would be desirable for day-ahead and intraday markets, as this would increase the exposure of generators to imbalance costs whilst simultaneously giving them less optionality to manage it. These changes would be particularly costly for intermittent renewables. A more efficient approach to incorporating location information into bids would be to move to a more zonal or locational market design.

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

Over time, as the role of gas generation in the power market diminishes, we may expect more frequently that the power price will not be set by gas generation and instead by other technologies such as (one day) hydrogen.

In the meantime, well-designed and technology neutral capacity markets should be considered by policymakers as a cost-effective approach to ensure security of supply during the energy transition as it may not be politically feasible to rely on infrequent scarcity rents to maintain the necessary capacity in the market.

We would support the EU developing a Target Operating Model as they have already for short term markets, with demand-side response and energy storage fully integrated.

Current capacity markets vary by Member State (and not all have them), there is not always a level playing field between all forms of flexible capacity (e.g. large and small scale, and generation and demand) and the type of flexibility product required will need to evolve as greater proportions of intermittent renewables come on the system.

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?

- (x) Yes
- ( ) No

Do you have additional comments?

2000 character(s) maximum

Existing EU regulation requires Member States and TSOs already to develop balancing products to encourage consumers to reduce demand at peak times. We believe that TSOs should continue to develop demand specific products as these may help dampen the impact on consumers of such price peaks, by providing consumers with an option of reducing demand to better manage the system, reduce overall system costs and at the same time potentially earning revenue from doing so.

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

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
- (x) 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

Current capacity markets vary by Member State (and not all have them), there is not always a level playing field between all forms of flexible capacity (e.g. large and small scale, and generation and demand) and the type of flexibility product required will need to evolve as greater proportions of intermittent renewables come on the system. We would support the EU developing a Target Operating Model for Capacity markets, as they have already for short term markets. This should ensure demand-side response and energy storage are fully integrated.

Do you have additional comments?

4000 character(s) maximum

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

- (x) Yes
- ( ) No

Do you have additional comments?

3000 character(s) maximum

Shell supports the Commission exploring the benefits of introducing finer price zones across Europe to reflect transmission constraints.

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

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Energy sharing and demand response

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

- ( ) Yes
- (•) No

Do you have additional comments?

2000 character(s) maximum

Preference is not to allow netting of offsite generation, as it can potentially inhibit the market for batteries and other flex solutions like e-boilers and introduce more cost to the supplier (cost increases with increasing time window allowed).

In case policy support is granted for this approach, netting of production and demand should be simultaneous. With bigger timeframes, this results in extra costs to the supplier which are then socialized across all the customers (customers without generation will pay in part for the customers that do have routes to generation (be it offsite or onsite).

If such a right were introduced:

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

- (selected) Yes
- No

Do you have additional comments?

2000 character(s) maximum

Potentially it could impact, depending on the grid infrastructure and level of congestion.

(b) Should it be restricted to local areas?

- (selected) Yes
- No

If yes, why?

2000 character(s) maximum

Like the question above, this will depend on grid infrastructure and level of congestion.

Do you have additional comments?

2000 character(s) maximum

(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?

- (selected) Yes
- No

If yes, what particular issues should be taken into account?

2000 character(s) maximum

We support the right of customers to second meters/sub-meters - following the positive example on second meters in the Netherlands. Although, it's a different case in every Member State.

In the case of sub-metering, it's important to have a parallel set-up, having more actors on one connection.

Using third party metering in a serial configuration will lead to complex behind-the-meter allocation issues.

Having an actual second, third and more meters is more likely in the case for B2B than for B2C, due to constraints, such as available space and cost of meter and their installation.

Important to note, though, that in these cases we are speaking about new generation smart meters that allow for distinguishing between sufficient number of separate counters.

Do you have additional comments?

2000 character(s) maximum

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

Do you have additional comments?

2000 character(s) maximum

We would not support an obligation on suppliers to offer un-amendable fixed term contracts for customers given (1) Suppliers could face significant financial exposure, especially in periods of high price volatility, which early termination fees would be unlikely to sufficiently cover; (2) it would risk hindering specialization of supplier to certain contract types; (3) if the intent is to draw more customers to such a fixed price fixed term contract this also means that customers won't be able profit quickly when prices drop.

In case policy support is granted for this approach, we ask that it is subject to the following: (1) suppliers should be free to construct their own fixed term fixed price offer (no standard offer); (2) early-termination-fee mechanisms should apply, as is already allowed under the Electricity Directive; (3) these should cover the full economic loss of the supplier; (4) any provisions should not distort the level playing field.

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

Do you have additional comments?

2000 character(s) maximum

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

	Yes	No
(a) Should these provisions be clarified?	○	●
(b) If these provisions are clarified should national regulatory authorities establish ex ante approved termination fees?	○	●

Do you have additional comments?

2000 character(s) maximum

Further clarification would significantly increase the market risk exposure of suppliers. Multiple wholesale products used in sourcing won't be available yet and hence this option would move us away from ''direct economic loss''. A standard methodology for all would additionally also inhibit supplier to act on the best possible sourcing strategy.

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

Supplier of last resort

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?

- (selected) Yes
- No

Do you have additional comments?

2000 character(s) maximum

Yes, it could be specified at EU level if the mechanism is also addressed at the same time.
(i) The SoLR procedure should allowing for sale of the customer book (growth opportunities); (ii) new supplier should be allowed to offer new tariffs under his own contract conditions; (iii) if book is not sold, customers should be divided pro-rata instead of to one individual supplier. This is the system currently in place in the Netherlands for B2C.

The responsibilities of SoLR should not be specified at EU level, though, if this will only lead to stricter rules for the new supplier without adjustment of the mechanisms.

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
- (selected) No

(a) If such a provision were established, should price regulation be limited in time and to essential energy needs only?

- Yes
- No

(b)

	Yes	No
Would such provisions substitute on long term basis for direct access to renewable energy or for energy efficiency?		
Can this be mitigated?		

(c)

	Yes	No
Would such contracts reduce incentives to reduce consumption at peak times?		

Can this be mitigated?	○	○

Do you have additional comments?

2000 character(s) maximum

High energy prices reflect a fundamental mismatch between supply and demand. Policy interventions which increase new supply or manage demand should therefore always be prioritised. Interventions which disrupt price signals, such as price caps, should maintain where possible the marginal pricing signal, given high prices warn the market supply is short and demand reduction is required. In this context we have some concerns about the proposed below-cost emergency framework as it could lead to (1) distortions in wholesale market price setting (2) state aid concerns (with regards compensation); (3) Competition distortions between smaller and larger companies if SMEs are included (demarcation issues i.e. connection size/gross margin) (4) the allocation of support between customer groups requires complex societal trade offs which, in our view, Member States are best placed to manage. We also note any differing requirements for suppliers of different sizes / customer segments could lead to competition concerns and potentially viability concerns depending on how far suppliers were able to recover costs from taxpayers if unable to pass such costs on to customers.

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

It would be important to include a requirement for an intent for sanctioning market manipulation; also to strengthen the regulation and supervision of the energy markets with a tailor-made approach and not applying (copy-and-paste) rules from the financial market regulations (e.g. for rules on algorithmic trading) and properly consult on it before the application.

The inclusion of DSOs, LSO and SSOs into the definition of market participants would be important and the exclusion of end-customers from the definition of market participants.

Finally, there is a need to clarify that once data is submitted to IIP (transparency platform) there is no inside information anymore.

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

Updating of REMIT definitions and framework:
• General alignment of REMIT definitions of market manipulation with MAR definitions (Art. 6) unless differentiation is required to take account of specifics of energy (gas and power) markets
• Alignment between Transparency regulation and REMIT (e.g. publication and reporting requirement)

Enforcement :
• Increase monitoring of the TSOs' behaviour (publications of the inside information and trading activity)

Include implications of energy transition:
• Update the definition of wholesale energy products to include and address implications of new products such as hydrogen, ammonia and others when blended into gas grid. Moreover, clarifying that a product should fall into the definition of WEP only whenever there is an obligation to deliver energy (e.g. obligation to build the power plant to be at disposal, etc… is not a WEP) and that all the molecules allowed to entry in the grid should be considered as gas (e.g. blended hydrogen entering the grid) and therefore shall fall into the definition of WEP

ACER to define technical implementation:
• Mandate for ACER to propose binding guidance and RTSs on technical implementation matters for review and adoption by EU Commission (areas for technical implementation to be discussed, e.g., for

reporting) (reason: harmonised understanding of market abuse rules in the EU)
• Introduction of obligatory public consultations on such areas where market participants must comply with

The borderline between REMIT and financial market regulation / Improvement of cooperation between ACER / NRAs and ESMA / FCAs :
• Energy market regulators and other authorities (national financial regulators, ESMA) should be obliged to cooperate to ensure an efficient data exchange and transparency towards authorities and a consistent approach towards breaches of insider dealing and market manipulations prohibitions
• As far as many different regulations might be concerned (MAR, REMIT…), we strongly advise to introduce a prohibition on double penalties (ne bis in idem) to avoid that firms and/or persons would be punished twice for the conduct and a prohibition for National Regulatory Authorities to open sanctioning proceedings on topics already investigated/under investigation by another National Authority.

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

More efficient reporting:
• Allow for single-sided reporting for OTC wholesale energy markets (alike EMIR)
• Direct reporting obligation of OMPs for wholesale energy transactions (orders, transactions, lifecycle events) concluded on orders entered via their venue (no validation / no liabilities by market participants) ;
• Avoid double reporting obligations for firms on EU and national level for data which is already reported under REMIT (and EMIR);
• Exclude bilateral OTC contracts for physical energy delivery to final customers (to be achieved by excluding final customers from the definition of the market participant);
• update thresholds for the exclusion of MPs to 40 MW for power and to 40 Mcm/y for gas, clarifying that these entities are lifted from the obligations of reporting, registration and Inside Information publication.
• Reduce complexity of reporting formats such as:
o update through CEREMP for company mergers and M&A activities in general
o simplification on Table 2 non-standards contract reporting
• Collection of fundamental data directly from TSOs, LSOs and SSOs (no liabilities of market participants – the source of info are TSOs, LSOs and SSOs);

Improve transparency regime:
• Setting of disclosure thresholds for inside information for power and gas;
Such thresholds would create legal clarity and certainty and facilitate the firms' compliance with the REMIT inside information disclosure regime. Also, it would avoid publishing not price relevant information and hence make the disclosure regime and in particular the IIPs more effective.
Such confirmed power and gas thresholds should be applicable in all situations except for extraordinary market situations such as national authorities' declaration of supply emergency, risk of black outs or rationing announced by TSOs.
• Increase transparency through clarification of the publication requirements by TSOs to publish Inside Information on flow reductions as soon as the info becomes available, (e.g. curtailments, redispatch) including events that happen outside EU.

Here you can upload additional information, if you wish to do so

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