Contribution ID: 637e8e3c-3d9e-442d-afe2-9ec2bcd553ad
Date: 10/02/2023 13:38:44

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

Fields marked with * are mandatory.

Electricity Market Design

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

EMD_Consultation_document.pdf

Introduction

Background

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

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

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

The EU Electricity Market Design

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

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

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

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

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

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

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

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

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

unaffordable bills for many consumers and companies.

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

There are two main types of long-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
- (•) English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

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

* First name

Kimmie Byriel

* Surname

Laage-Petersen

* Email (this won't be published)

kblp@forsyningstilsynet.dk

* Scope

- ○ International
- ○ Local
- ○ National
- ◉ Regional

* Level of governance

- ○ Parliament
- ◉ Authority
- ○ Agency

* Organisation name

255 character(s) maximum

NordREG - Nordic Energy Regulators

* Organisation size

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

Transparency register number

255 character(s) maximum

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

* Country of origin

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

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

- Afghanistan
- Åland Islands
- Albania
- Algeria
- American Samoa
- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan

Bermuda	Greece	Mozambique	Suriname
Bhutan	Greenland	Myanmar/Burma	Svalbard and Jan Mayen
Bolivia	Grenada	Namibia	Sweden
Bonaire Saint Eustatius and Saba	Guadeloupe	Nauru	Switzerland
Bosnia and Herzegovina	Guam	Nepal	Syria
Botswana	Guatemala	Netherlands	Taiwan
Bouvet Island	Guernsey	New Caledonia	Tajikistan
Brazil	Guinea	New Zealand	Tanzania
British Indian Ocean Territory	Guinea-Bissau	Nicaragua	Thailand
British Virgin Islands	Guyana	Niger	The Gambia
Brunei	Haiti	Nigeria	Timor-Leste
Bulgaria	Heard Island and McDonald Islands	Niue	Togo
Burkina Faso	Honduras	Norfolk Island	Tokelau
Burundi	Hong Kong	Northern Mariana Islands	Tonga
Cambodia	Hungary	North Korea	Trinidad and Tobago
Cameroon	Iceland	North Macedonia	Tunisia
Canada	India	Norway	Türkiye
Cape Verde	Indonesia	Oman	Turkmenistan
Cayman Islands	Iran	Pakistan	Turks and Caicos Islands
Central African Republic	Iraq	Palau	Tuvalu
Chad	Ireland	Palestine	Uganda
Chile	Isle of Man	Panama	Ukraine
China	Israel	Papua New Guinea	United Arab Emirates

- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

To which category of stakeholder do you belong?

- [ ] a) National or local administration
- [x] b) National regulator
- [ ] c) Transmission System Operator
- [ ] d) Distribution System Operator
- [ ] e) Market operator
- [ ] f) Energy company with generation assets
- [ ] g) Independent energy supplier with no generation assets
- [ ] h) Company conducting business in the energy sector 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

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

* **Contribution publication privacy settings**

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

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

- [x] I agree with the personal data protection provisions

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

Making Electricity Bills Independent of Short-Term Markets

Subtopic: Power Purchase Agreements (PPAs)

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

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

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

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

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

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

- ○ Yes
- ◉ No

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

2000 character(s) maximum

By PPAs, NordREG understands corporate PPAs, which are bilateral contracts between private market participants with either physical delivery or purely financial obligation. However, we note that this is not clearly defined in the consultation which may indicate a need for mapping the different models for PPAs. Our response below is based on the definition of PPAs as described above.

1. there is inherent mismatch between (i) hedging interest of most consumers, as they are not interested to lock-in prices for in very long horizons and (ii) producer hedging interest, which want to hedge their investment costs. Due to their lack of standardisation and bilateral nature, the supply and the demand for PPAs are difficult to match. It is therefore a complex task for the two contractual parties to identify themselves and initiate the set-up of a PPA, especially across borders, because cross-zonal capacity cannot

be allocated in such long timeframes.
2. small consumers or suppliers often have limited access to PPAs, as they have difficulties to demonstrate their bankability and their ability to honour their obligations. They might also have varying time horizons or needs in terms of volumes to offtake, as well as a counterpart risk mismatch.
3. PPAs are less flexible in the sense that the bilateral arrangements are mutually binding during the contract maturity or with costly exit clauses.

However, if those contracts were to be standardised and supply and demand were pooled through more organised market places, it would be relevant to assess whether to support PPAs or instead channel such trades through regular financial contracts such as futures, forwards and options with same maturities. NordREG would suggest to conduct an impact assessment and to evaluate this option against other possible policy options (e.g. increased focus on forward markets or CfDs).

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

at most 6 choice(s)

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

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

- ( ) Yes
- (•) No

Please explain

2000 character(s) maximum

There might be other ways to strengthen the use of PPAs, for instance, standardization of financial PPAs would help ensure efficient dispatch. However, NordREG recommends refraining from active support to PPAs and propose that such state support is directed to other forms for forward markets as more trade in PPAs means less trade in forward markets.

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

- ( ) Yes

- [x] No

Please explain

2000 character(s) maximum

More OTC trade in PPAs means less trade in more transparent forward markets traded on exchanges. Consumers should be able to hedge in a manner reflecting their risk willingness. PPAs as an instrument can be a part of this, but liquid forward markets can also allow hedging. Market fragmentation risks undermining the liquidity of the already existing forward markets. No generators should be forced into entering PPAs. There is also a need for an impact assessment to quantify the effects on other markets if one were to provide stronger incentives for entering into PPAs.

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
- [x] 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	◉	○

If yes, how can these risks be mitigated?

2000 character(s) maximum

a. Promoting PPAs means promoting bilateral trading, which means that the MWs or MWh covered by these PPAs will inevitably disappear from the volumes in the forward and day-ahead market if those PPAs are physically settled (there may be some forms of PPAs where this negative effects would not occur). If Member States or regulatory authorities decide to support the long-term market with specific interventions, then such support should promote trading at organised market places with standard financial contracts (e.g. futures and forwards) that promote transparency, efficient price formation, standardisation and have no impact on the liquidity of short term markets.

b. PPAs due to their inherent customisation and non-standardisation are suitable for bilateral agreements but less suitable for portfolios of small players.

c. If the rules governing regulatory and state support to PPAs are not harmonised, then this will affect the level playing field in different Member States. Nevertheless, some Member States could put such rules at national level, as long as this is implemented after a thorough assessment of negative effects on other Member States and the European electricity market and only with a State Aid approval. In case of negative effects these instruments should only be implemented if the benefits surpass cost on a European level.

e. Yes, long-term contracts provide opportunities for affordable prices but also risks for getting locked in at a high price. Long-term contracts with investors represent competition for the market. Such competition is much less strong than competition in short-term markets, because of very limited supply and demand at any given moment and no cross-border competition. With this respect, consumers might on average be faced with higher costs of electricity supply. Signing a long-term contract to buy electricity is very risky if the hedge is not covered on the sell side (e.g. selling aluminium to be produced for the same period).

Subtopic: Forward Markets

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

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

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

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

- (●) Yes
- ( ) No

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

- ( ) Yes
- (●) No

Do you have additional comments?

2000 character(s) maximum

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

2000 character(s) maximum

Market participants have the possibility to hedge with energy derivatives or other types of contracts (e.g. private PPAs). Forward contracts are energy derivatives that could be traded directly in the exchange, through brokers, or OTC bilaterally.
The main barrier that prevents market participants to trade in the exchange is the liquidity spiral. Low liquidity increases transaction costs of trading (higher bid ask-spreads). One of the reasons for low liquidity is the asymmetry between buyers and consumers´ hedging needs (different timeframes) that could prevent producers to find enough counterparties.
Another barrier that prevents market participants, especially small and medium sized ones, to trade in the exchange are collateral requirements and other transaction costs required for active trading.
Moreover, most new energy generation, like wind, has negative correlation between their generation volume and market prices. This makes selling forwards an unattractive way of hedging their generation, as forwards also have to be honored when the wind generation is low and the prices are high, and therefore expose them to a risk. Generators selling a forward, need generation to back up the sale. When day-ahead prices go high, they have to pay a lot of money to the buyer of the forward, but this is not a problem when production is high, as they sell in the day ahead market and this income is passed on to settle the forward contract.
However, when the wind does not blow, day-ahead prices are generally high. In this case, wind producers still need to compensate the buyer of a forward but the income generated from low generation may threaten their cashflow. Therefore, selling the forward actually makes the cash flow of wind producers more volatile instead of making it secure.
This reasoning also applies to PPAs. However, wind producers subscribe PPAs only for a fraction of their forecasted production based on their risk preferences and strategy.

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

Requiring electricity suppliers to hedge for a share of their supply would present a significant barrier to entry on the retail market, while increasing prices for consumers, lowering the demand response and thereby increasing the day-ahead prices.
Market participants (producers, suppliers, and consumers) have different risk preferences. The need of hedging (and hedging possibilities) should respond to these preferences. Mandatory hedging will result in an inefficient outcome. For example, the evolution of energy prices in the last years have helped consumers to be more aware and evaluate their flexibility possibilities, which may reduce the need of hedging in the first place.
Such a requirement were to go beyond the volumes and maturities of fixed price contracts, it would also increase the share of risks borne by suppliers compared to the risks borne by consumers

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

If yes, do you consider that such virtual hub(s) should be developed at national, regional or EU level?

- ○ National level
- ◉ Regional level
- ○ EU level

Do you have additional comments?

2000 character(s) maximum

NordREG endorses the ACER/CEER answer to this question. However, NordREG sees the need for further discussion on open topics with stakeholders (e.g., how to determine a relevant hub price, the geographical perimeter of the hub, the type of associated cross-zonal hedging product, etc). These topics require a proper impact assessment in order to maximise the benefits and minimise the risks of any proposed reform.

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?

8

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

2000 character(s) maximum

The Nordic hub product has been successful in providing more liquidity than what single zone futures would have had otherwise. However, the cleared volumes of the Nordic hub product have gradually decreased since 2008. This liquidity drop has been generally affected by the same elements that affected other power futures derivatives in Continental Europe, namely: the 2008 financial crisis, the EMIR Regulation in 2016, and the MIFID II Regulation in 2019. Furthermore, the correlation of the hub price with the zonal prices have decreased during the energy crisis from 2021 onwards. This lower correlation could be mitigated with Electricity Price Area Differential (EPAD) contracts. However, volatile prices and large degree of uncertainty have caused low liquidity in EPADs. This also contributes to lower liquidity of the Nordic hub.

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

NordREG proposes to limit the use of CFDs in the countries that have implemented them. CfDs should decouple payments from actual generation. In addition, we advise against introducing measures that remove price signals from the short-term markets, as these price signals a driver for the need to hedge (and for demand response).

One may also assess and adjust collateral requirements and risk management policies at organized marketplaces to have them better fitting the specificities of the energy markets (e.g. reducing collateral requirements or their required quality or reducing risk management standard) possibly combined with state guarantees for participants with physical assets (producers, consumers).

Moreover, cross-border hedging products could complement other energy derivatives like futures or system price contracts in the Nordics. In this respect, ACER has just published its "Policy Paper on the further development of the EU electricity forward market". The content of this report is a useful input to discuss possible changes in the FCA regulation. However, the proposed changes should also be subject to a thorough impact assessment.

In general terms, the FCA regulation should not be too prescriptive on specific risk hedging products (e.g., long term transmission rights) and instead focus on hedging possibilities, and let the market decide which products could be most adequate for this purpose.

Subtopic: Contracts for Difference (CfDs)

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

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

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

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

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

- ○ Yes
- ◉ No

Do you have additional comments?

2000 character(s) maximum

NordREG understands the typical two-way CfDs in question here entail (i) the state as a single buyer, (ii) settlement with single strike price (typically against the DA price) and produced volume and (iii) direct settlement with all consumers through taxes and levies (bonus or malus). These kinds of CfDs come with opportunities as well as with risks. However, NordREG also would like to point out that this is not clearly defined and thus increases the risks that different stakeholders will interpret this term in different ways. We therefore propose to map out the different models for CfDs in an impact assessment and to develop a concise definition of the preferred model for CfDs that can be taken as reference point in future discussions.

NordREG cannot support EU actions mandating the use of CfD or similar type of state long-term contract at this stage. This is because the optimal design of CfDs is not known yet and because the member states can achieve the objective of protecting consumers through other means as well (e.g. limit excessive inframarginal revenue, taxation policy, (energy) poverty policy, etc.). Nevertheless, Member States may be allowed to use such mechanisms to meet their objectives. In such case, this mechanism should only be implemented after a thorough assessment of negative effects on other Member States and the European electricity market and only with a State Aid approval. In case of negative effects these instruments should only be implemented if the benefits surpass the costs on a European level.

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

Further steps should be carefully assessed

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

2000 character(s) maximum

None. CFD’s create distortionary market signals.

For dispatchable generation (such as thermal generation and reservoir hydropower):

There is no incentive to respond to market needs and increase/decrease production as needed, and may therefore amplify the price volatility in the market. When prices are high producers under the scheme do not have an incentive to increase production. Demand may instead be met by the use of generation not in the scheme, which could be generation such as coal and gas. When prices are low or even negative, generation under the scheme do not have incentive to decrease their production although there is no demand.

For intermittent generation (such as wind, PV and run-of-river generation):

Bidding zones with a high share of intermittent energy may create large negative prices, which governments have to pay to e.g. windturbines who have no incentive to not produce despite no demand for their electricity. Without CFDs we have many hours with prices of 0. If intermittent generation had CFDs, these hours would instead have negative prices and the CFDs would be very costly for the government.

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

All. CFD’s create distortionary market signals, making renewables unresponsive to market signals and leading to an inefficient dispatch.

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

Any generation procured using two way CFD’s is taken out of other hedging markets like forwards and PPA’ s. This risk making those markets illiquid, preventing efficient hedging. Furthermore, renewable capacity procured using CFD’s is an enormous financial liability for states with a high share of renewables especially wind where they risk having to pay any negative prices plus CFD strike price for energy produced, for which there is no demand nor any need. Furthermore, CFDs may take liquidity out of the balancing markets and provide less possibilities for doing redispatch and countertrade for the TSOs, thereby decreasing the available cross-zonal capacity for trade.

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

Impact assessments are needed before choosing any path.

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

In bidding zones with a high share of renewables it is more likely that CFD's would provide a net loss for holders of CFD's, as prices would be highly negative in times of high production from those generators under CFD's. Any revenue from CFD's in times of high prices should therefore be saved to offset costs of CFD's at other times. This effect could be expected to be amplified over time.

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

The cons of CfDs highly outweigh the benefits no matter the duration

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

The cons of CfDs highly outweigh the benefits no matter the duration.

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

There is no type of generation for which CFDs are suitable. Furthermore imposing CFD's on existing producers present significant legal risks. Imposing CFDs on existing generation could be considered a form of expropriation or state-aid, depending on the price of the CFD.

CFDs should not be imposed on any forms of production.

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

Do you have additional comments?

2000 character(s) maximum

A revenue ceiling would avoid some of the issues with CFD's generating distortionary price signals. However, a price ceiling would also remove part of the investment incentives for inframarginal technologies. Doing this to existing generation risks deterring to a significant degree future investment. CfDs with only a ceiling also remove liquidity from the forward market.

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

Forward markets allow efficient transparent hedging allowing consumers and producers to hedge to the degree they believe necessary. Forward market hedging and financial PPAs ensure liquid day ahead markets, which sends correct price signals to both production and investment. Efficient forward markets also send efficient investment signals. These are both significantly better options than using CFDs in any form or on any types of generation. The forward market in the Nordic countries have mitigated the effects of the energy crisis for many Nordic consumers, hereunder industrial consumers.

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		

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

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

2

(b) its impact on decarbonisation

(c) security of supply

2

(d) investment signals

1

(e) legitimate expectations/legal risks

1

(f) fossil fuel consumption

2

(g) cross border trade intra and extra EU

1

(h) distortion of competition in the markets

2

(i) implementation challenges

2

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

Do you have additional comments?

2000 character(s) maximum

While NordREG is generally not supportive of this measure, NordREG recognises that other alternatives based on long-term markets may need time to develop and that there is a potential gap and need for such a measure in the near to midterm timeframe. Therefore, NordREG is open to evaluate possible improvements and alternatives of such a measure with the aim to provide ex-ante certainty and visibility to all market participants what will be the rules, should a similar situation arise in near future and if any cap is to be introduced it should be uniform across the EU, as to not create competition and draw investment to less efficient places.

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

If any revenue is to be given back to the consumers, it is very important that there are still price signals that incentivise them to adjust their electricity consumption and to save energy, as it otherwise would distort the market and incentivise consuming more electricity, effectively increasing the market prices. A lump-sum pay-out to all consumers is a possible non-distortive way of allocate revenues to the consumers. Vulnerable consumers should be protected outside the markets (e.g. through tax breaks or social policy measures), not through the markets

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

Different pricing methods currently coexist for the different electricity market timeframes in the EU. The uniform / pay-as-cleared pricing model currently applies for the single day-ahead coupling (SDAC) market. The same pricing model will soon apply to pan-European intraday auctions. However, the pay-as-bid type of pricing model seem to be the only choice for all continuous markets (forward market and continuous intraday market).
An important remark on the debate about the pricing method is that there is often an assumption that moving from pay-as-cleared to pay-as-bid would lower the cost for consumers because low-variable cost technologies would bid at a very low price. Such assumption does not hold true because, in short-term markets, market participants bidding freely tend to bid at the expected market price (forecast) to be set by the marginal technology needed to supply demand at that moment in time, which would lead to inefficiencies mainly linked to the forecasting of the expected market price.
Having clarified that, there is a broad consensus that marginal pricing is the superior method to ensure efficient dispatch and determining the most efficient cross-border flows in short-term markets. This is not incompatible with the coexistence of other pricing methods in other market timeframes as the day ahead market price would be used as the reference price also in those markets.

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

3000 character(s) maximum

By putting a price on carbon dioxide (a measure outside of the electricity market), the EU ETS creates incentives for the power sector as a whole to reduce emissions. The carbon price signal exerts an influence across technologies and business models (including for services such as flexibility and storage) and let the market decide where and how it's most efficient to abate emissions.

The speeding up the annual emission reductions and certainty about the allowed emissions trajectory increases trust and supports the low-carbon innovation and investment. In addition, promoting long-term forward markets (beyond 5 years) for emission products would provide effective price signals to low carbon investments.

With the increasing share of variable renewables, flexibility in the power system is becoming ever more important. At the same time, currently, flexibility is mostly provided by fossil generators or reservoir hydro while demand response and other storage technology is only starting to become available at a wide commercial scale. Driven by market demand, the development of low-carbon flexibility, demand response and storage are expected to develop fast as effective carbon price signals place them on equal footing with the more polluting competition.

The development of low carbon flexibility and storage could also be further incentivised by allocating more ETS revenue into these investments. At the same time, any such potential incentive scheme must be designed in a way so it does not unduly distort competition between low carbon investments.

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

- (●) Yes
- ( ) No

Do you have additional comments?

2000 character(s) maximum

The question raises complex issues linked to system operation (namely balancing and congestion management) closer to real time. Moving the gate closure closer to real time may impose that TSOs perform balancing and real-time congestion management in parallel to intraday markets which may be difficult for some TSOs and require a shift in system operation paradigm. Nevertheless, as outlined in a reflection paper by ACER/CEER on offshore bidding zones, it may be beneficial to move the intraday cross-zonal gate closure time closer to real time for at least the following two cases:
(a) for all offshore interconnectors
(b) in case the intraday cross-zonal gate closure time is earlier than intraday internal gate closure time (the two should be equal to avoid discrimination between internal and cross-zonal exchanges).

However, NordREG believes that moving the intraday gate closure time in all bidding zones and bidding zone border strictly requires a thorough impact assessment looking at the need for operational actions by the TSOs in a short period of time and costs/benefits of such a change. The assessment should also take into account the need for automatising balancing processes and markets, the project plans for connection to the European balancing platforms, and that the gate closure time of balancing markets is 30 minutes before real time. The benefits of such change would also be conditioned to the actual availability of cross-border capacity up to real time, there would be little benefit of forcing shorter gate closure times if the cross-zonal capacities for cross-border trade close to real time is very low or zero. This issue should be also investigated and quantified as part of such an impact assessment

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

The current Single intraday coupling (SIDC) is built on the model where market operators (NEMOs) share their liquidity into a single Shared Order Book (SOB). Based on the cross-zonal capacity made available to the SOB, market participants from individual NEMOs can thereby trade continuously between them across all NEMOs and across all EU/EEA bidding zones.

Currently the trade between NEMOs active in the same bidding zones does not continue after the cross zonal gate closure time (an hour before the delivery). As the intraday (ID) market in the final hour before real time is the most liquid and relevant for market participants to compete in, the sharing of liquidity in the final hour, after the cross zonal trade is closed, is important to increase competition between market participants and allow equal access to liquidity to the market participants from different NEMOs active in the same bidding zone. As the final hour of ID trade is most liquid part of the ID timeframe, not sharing the liquidity in this period also negatively impacts the competitive position of NEMOs prior to the cross zonal gate closure time. Therefore sharing liquidity would benefit both the level playing field of NEMOs operating and of market participants active on SIDC.

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

- ○ Yes
- ◉ No

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

2000 character(s) maximum

Market actors both on the generation and consumption side should generally be free to choose whether to participate in the intraday, day ahead or balancing markets. (…) As long as PPAs are financial, the market participants will still have an incentive to participate in the markets.

It should also be noted that not offering available capacity in the day-ahead nor intraday market could amount to a breach of Article 5 of REMIT. Such manipulative capacity withholding occurs, for example, when a market participant with the relative ability to influence the price or the interplay of supply and demand of a wholesale energy product (e. g. the day-ahead price formation), decides, without justification, not to offer or to economically withhold the available production on the market. (This is not relevant for generation already sold e.g .through physical PPAs).

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

It would be more difficult for market participants to perform portfolio management, risk management of their different assets and aggregating different generations in complex bids.

One advantage of unit level bidding would be that it provides more transparency on individual bids per individual generation units making regulatory oversight more easy and allowing to assess better the efficiency of price formation and market design changes. It may also reduce gaming in case of locational market power due to predictable congestions and redispatching. Another advantage is more accurate information of TSOs on unit scheduling which helps the accuracy of network modelling. It also allows market participants to more easily represent the asset capability in their bids (assuming that algorithms allows such flexibilities).

On the other side, the drawbacks of such an approach would be that it could limit free price formation (enshrined in Article 3 of the Electricity Regulation) because the standard product specification and algorithm functionalities may not enable optimisations that are possible under portfolio bidding (it is to note that portfolio bidding does not restrict the freedom of unit bidding, whereas unit bidding does restricts the freedom of portfolio bidding). Also, full unit bidding would not even be possible as distributed energy resources and demand response need aggregation at least at nodal level to participate at wholesale market. Unit bidding would also have an impact on market coupling algorithms, which currently are disproportionally burdened by orders coming from markets with unit bidding compared to orders from markets with portfolio bidding. However, these technical challenges caused by larger data volumes are expected to decrease over time as algorithms become more capable of handling big data within shorter timeframes.

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

Not introducing distorting measures such as CFDs, mandatory hedging and price caps, and removing these in the countries where they have already been introduced will improve demand response and energy storage. Both need highly volatile prices in order to be attractive.

NordREG also points to ACER's framework guidelines for demand response which is giving clear guidance on what could be improved.

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 have additional comments?

2000 character(s) maximum

A second meter (submeter) may enable us to significantly reduce the need for technical changes to national datahubs and particularly the common Nordic imbalance settlement function. It will also increase the visibility on where the flexibility is coming from and what kind of services certain flexible resources are able to provide or not.

However, we need to ensure that the actual submetering device can be a simplified (and less costly) version compared to an ordinary smart meter (or "main meter") in order to make the concept work. All metering devices currently need to be compliant with the 2014/32/EU Measuring Instruments Directive (MID). This Directive is very detailed and leaves currently little room for using any other device than an ordinary smart meter. A clearly defined and standardised "submeter" on EU level would enable lower cost for manufacturers (due to large scale production / bulk purchase) and avoid lock-in effects (and reduce switching costs) for end consumers who have an aggregator.

NordREG therefore proposes to investigate whether a revision of the MID is needed to establish a standardised European "submeter" (the same way as for ordinary smart meters) to increase their commercial viability.

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

- ○ Yes
- ◉ No

Do you have additional comments?

2000 character(s) maximum

Demand response should in basis be product developed by market participants and between wholesale market actors and (retail) consumers. Requiring further ancillary services to be procured by system operators to reduce demand would provide a barrier to this development in the market. Proper price incentives for market participants and access of (retail) consumers to such services should be enough to develop these services in the market.

Apart from being against such newly developed ancillary service, it's clear that barriers to the current ancillary services procured (like balancing, congestion management and voltage control) need to be further reduced to allow more participation for demand response and storage.

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 have additional comments?

2000 character(s) maximum

Price signals already create significant demand respond. Using prices and markets to regulate consumption is an effective way forward. Thus, the priority in the reform of the electricity market should be to remove any barriers for demand response and properly implement the Electricity Directive and Regulation across Europe.

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 have additional comments?

2000 character(s) maximum

Not introducing distorting measures such as CFDs, mandatory hedging and price caps, and removing these in the countries where they have already been introduced will improve demand response and energy storage.

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

- ○ Yes
- ○ No

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

- ◉ Yes
- ○ No

Do you have additional comments?

3000 character(s) maximum

More granularity in price signals would increase the efficiency of the markets, this could initially be achieved through smaller bidding zones without internal bottlenecks. It is very important for sending the correct investment signals both to generators, industrial consumers and TSOs. Furthermore more granularity in the price signals in the markets, will also incentivize market participants to use the markets instead of trading OTC.

Better Consumer Empowerment and Protection

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

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

Increasing possibilities for collective self-consumption and electricity sharing

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

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

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

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

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

Adapting metering to facilitate demand response from flexible appliances

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

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

Better choice of contracts for consumers

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

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

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

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

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

Strengthening consumer protection

A) Protecting customers from supplier failure

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

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

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

The Electricity Directive includes specific provisions for energy poor and vulnerable customers, which are part of a broader policy framework to protect such consumers and help them overcome energy poverty.[6] However, the crisis has shown that affordability of energy can be a major issue not only for these groups, but also for wider sections of population. Member States can apply price regulation for energy poor and vulnerable households. Council Regulation (EU) 2022/1854 on an emergency intervention to address high energy prices allows for below cost regulated prices for all households and for SMEs on a temporary basis

and subject to clear condition. In particular, such measures can only cover a limited amount of consumption and must retain an incentive for demand reduction. One of the lessons of the crisis is that the objective of reducing energy costs for consumer should not come at the expense of encouraging excess demand and fossil fuel lock-in, or fiscal sustainability. However, some form of safeguard to allow Member States to intervene in retail price setting might be needed for the future during a severe crisis, such as the current one. This could ensure that citizens have access to the energy they need, including ensuring that certain consumers have access to a minimum level of electricity at a reasonable price, regardless of the situation in the electricity markets, while avoiding subsidies for unnecessary consumption, such as heating of swimming pools[7]. This would also help ensure that when making large purchases, customers would take into account the full cost of energy. As the objective is to mitigate the impact of high prices during crisis periods, it would seem sensible to develop specific criteria to define a crisis in these terms. One alternative would be to link the Electricity Risk Preparedness Regulation, however this is focused on system adequacy, system security and fuel security, rather than mitigating the impacts of a crisis on users. Fossil fuel lock-in, however, needs to be avoided.

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

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

[3] Spain, Croatia, Italy ,France.

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

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

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

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

---

Energy sharing and demand response

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

- ○ Yes
- ◉ No

Do you have additional comments?

2000 character(s) maximum

We read what EC has written as a suggestion to potentially enable sharing across large distances. EC has defined the process of sharing as “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.”

A prosumer that produces energy often uses this energy to cover a part of its own consumption, has an exemption from paying grid tariff for the electricity demand that is covered by the produced energy. Based on the citation above, the same applies for the energy that is shared from a production installation at another location. In practice this means that these prosumers have an exemption from grid tariff for the shared energy.

It should be investigated if this leads to cross-subsidisation (i.e. costumers that do not share would pay higher network costs). The shared energy is (physically or virtually) transferred using the grid. If the prosumers that share has a grid tariff exemption for the shared energy, it could be discussed whether the grid tariff reflects the cost structure of the grid. The result could be that the tariffs are not non-discriminatory.

If such a right were introduced:

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

- Yes
- No

(b) Should it be restricted to local areas?

- Yes
- No

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

- Yes
- No

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

- Yes
- (•) No

Do you have additional comments?

2000 character(s) maximum

It depends on who is responsible for the submeter (aggregator/DSO) and also depends on the actual model chosen as there are different models imaginable. NordREG finds, one should first look at the standardization of submeters as proposed in Q10.1 above.

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 do not see the benefit for consumers. In the current market situation, when future prices are difficult to predict, considerably fewer suppliers offer fixed price fixed term contracts. The suppliers that still offer these products do so at very high prices. If mandatory, the price of these offers would be more predictable, but also very expensive.
Requiring suppliers to offer fixed price contracts may raise costs more than necessary if there is no demand for such contracts.
It requires time and competence to offer fixed price fixed term contracts. In a competitive market, if there is a demand suppliers will offer them.
If implemented for all suppliers it could be a market barrier for small and new entrants in the market who want to meet the increasing demand for dynamic contracts and demand response equipment. Offering fixed price fixed term contracts at competitive prices takes a lot of resources regarding risk management etc, and would be an unnecessary burden to put on suppliers that are not interested in the fixed price fixed term segment of the market.

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

at most 1 choice(s)

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

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

	Yes	No
(a) Should these provisions be clarified?	○	◉
(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

It is difficult to set termination fees ex ante. Different suppliers have different costs. With fees set ex-ante, some customers will pay too much, others too little, very few exactly cost reflective.

The cost-reflectiveness of termination fees has to be tested case-by-case and ex-post. However, regulation

could be clarified with guiding principles that suppliers can use when setting the fees and NRAs can use when monitoring the fees. Guiding principles could be:

- A termination fee must be proportional and take into account, for example, the remaining binding time, the calculated remaining volume and market price for electricity or expected gain for the supplier or aggregator.
- A termination fee cannot be used to benefit the supplier or the aggregator economically, it can only be used to cut losses. If there is no economic loss, there should be no termination fee.
- Suppliers or aggregators are obliged to inform customers about the calculation method used to determine the termination fee upfront and in the contract. Further, suppliers must be able to inform customers how the termination fee has been calculated upon request. This helps customers, customer advisories and monitoring authorities.

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

- (●) Yes
- ( ) No

What should be done to clarify consumer rights and ensure stronger enforcement?

2000 character(s) maximum

Prudential supplier obligations

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

- ( ) Yes
- (●) No

Do you have additional comments?

2000 character(s) maximum

Firstly, it is a very challenging task to determine what constitutes an adequate hedge, as the hedging need differs between suppliers. Monitoring such a requirement would be a huge administrative burden on NRAs. In the Nordics, there has been no big problem with supplier defaults due to insufficient hedging, which implies that the market is handling risk adequately without hedging requirements.
Hedging comes at a cost (risk premium) and in mandatory hedging there is a risk of taking unnecessary costs, which at the end will be passed down to consumers.
Lowering the risk of going bankrupt is an inherent incentive of suppliers that will shape their hedging strategies without the need of any obligation.
While hedging may force suppliers to secure their contracts, and increase a certain of level of protection for the consumers, there are some concerns arising with the obligation.
A requirement for suppliers to be adequately hedged can introduce barriers to the electricity market. It might also reduce the establishment of smaller and innovative companies, as the cost of operating in the market is

too high.
The focus should be on making solutions that allows for hedging opportunities in a healthy and liquid market for hedging.
In addition the market will not necessarily improve after introducing the requirement. The requirement could lead to increased or high hedging prices for the suppliers. Increased costs for supplier will in most situations be shifted to the consumers.

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?

- ○ Yes
- ○ No

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

- ○ Yes
- ◉ No

(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

Regulated prices below cost distorts the market and can potentially worsen a crisis. Introducing below cost regulation will also reduce investment incentives to renewable energy and energy efficiency. Emergency measures should be implemented outside of the electricity market.

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

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

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

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

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

9a3f157d-ea69-4afa-9770-b25ee620421d
/NordREG_position_paper_on_ECs_consultation_regarding_the_EMD.pdf

Contact

ENER-MARKET-DESIGN@ec.europa.eu