

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

Fields marked with \* are mandatory.

## Electricity Market Design

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

[EMD Consultation document.pdf](#)

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## Introduction

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### Background

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

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

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

### The EU Electricity Market Design

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

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

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

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

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

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

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

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

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

unaffordable bills for many consumers and companies.

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

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

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

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

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

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

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

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

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

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

### **Alternatives to Gas to Keep the Electricity System in Balance**

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

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

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

### **Lessons Learned from Short Term Market Interventions**

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

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

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

### **Better Consumer Empowerment and Protection**

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

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

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

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

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

### **Stronger Protection against Market Manipulation**

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

### **Next Steps**

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

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

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

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

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

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## About you

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### \* Language of my contribution

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

\* I am giving my contribution as

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

\* First name

Daniel

\* Surname

Fraile

\* Email (this won't be published)

d.fraile@hydrogeneurope.eu

\* Organisation name

*255 character(s) maximum*

Hydrogen Europe

\* Organisation size

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

Transparency register number

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

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\* Country of origin

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

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

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- Mayotte
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- Moldova
- Monaco
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- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
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- Nepal
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- 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
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- Sweden
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- Bulgaria
- Burkina Faso
- Burundi
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- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
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- Guinea
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- Guyana
- Haiti
- Heard Island and McDonald Islands
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- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Türkiye
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
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- Uzbekistan
- Vanuatu
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To which category of stakeholder do you belong?

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

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**Anonymous**

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

**Public**

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

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

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

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## Making Electricity Bills Independent of Short-Term Markets

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### Subtopic: Power Purchase Agreements (PPAs)

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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>

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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*

The EU should strengthen the uptake of this market segment, at equal conditions throughout Europe. In some countries, liquidity of wholesale markets could be much better – PPA are rather complementary and add hedging options.

In terms of barriers for renewable-based PPAs, this document already describes them. To highlight some:

- Guarantee risk of the off-taker. this allows only large companies to engage into long term buying
- Lack of RES Guarantees of origin issue in some countries. Some RES projects might lose their GOs to the government who might resell them in an auction or administratively allocate them to specific consumers.
- Near site PPAs should be enabled to be defined as “self generation” schemes.
- Cross bidding zone PPAs are hard to be realised.
- Long administrative procedures, specially for issuing permits for the connection of RES to the electricity grid and an increasing number of refusals due to the lack of technical or economic conditions for connection.

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

Do you have additional comments?

*2000 character(s) maximum*

Long-term contracts, like PPAs, play a critical role in supporting investments in adequacy and clean technologies. They facilitate financing and reduce the cost of capital; they are also important for consumers to hedge, reduce volatility, and enable investments, e.g. in electrification:

To make full use of their potential, the following should be addressed:

- Regulatory Risk: the current crisis has created a precedent of interventions on inframarginal rents. Since the interventions started, the RES PPA contracted capacity saw an important decline in 2022, compared to 2021. PPAs require a stable regulatory framework to encourage investment and support long-term planning.
- Offtakers' insufficient creditworthiness: Credit worthiness is a major barrier across most sectors, particularly in heavy industry and manufacturing, and in less developed European economies, where many organisations have appropriate energy footprint for PPAs but are not rated by any major credit rating agency. (Most important)

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

If yes, please explain which rules should be revised and the reasons.

*2000 character(s) maximum*

In Poland, energy generators are required to sell their output via the energy exchange (the so called "energy exchange obligation"); this obviously limits the possibility to sign a PPAs. In Spain there is also an obligation to put a bid in the market (or to declare a bilateral agreement), but it does not necessarily mean an obstacle for a PPA (as could be settled financially and not physically).

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

- Yes
- No

If yes, under which conditions? What would be the benefits and challenges?

2000 character(s) maximum

Not having additionality for Renewable Fuels (RFNBOs) would help quite a lot on this point. Additionality burdens sector coupling overall.

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

- Yes  
 No

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

	Yes	No
(a) Liquidity in short-term markets	<input type="radio"/>	<input checked="" type="radio"/>
(b) Level playing field between undertakings of different sizes	<input type="radio"/>	<input checked="" type="radio"/>
(c) Level playing field between undertakings located in different Member States	<input type="radio"/>	<input checked="" type="radio"/>
(d) Increased electricity generation based on fossil fuels	<input type="radio"/>	<input checked="" type="radio"/>
(e) Increased costs for consumers	<input type="radio"/>	<input checked="" type="radio"/>

Please explain

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## Subtopic: Forward Markets

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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).

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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 Germany, many suppliers procure sourcing contracts with different maturities for their customers on the futures market. However, there are also suppliers who cover themselves exclusively or predominantly only on the spot market. In such cases, the effects of the current high-price phase were passed on to customers unbuffered. However, state intervention in procurement and risk strategies would both make competition difficult and raise barriers to market entry. Possible regulations should be minimally invasive and only prevent abuse, otherwise they would negatively influence competition, raise barriers to market entry and would interfere with entrepreneurial freedom in calculation and product design.

In the case of residential consumers, imposing minimum hedging risks leading to higher prices. there is also a risk for retailers of not being able to fulfill an obligation in case there is not enough liquidity on the forward markets. Instead, it should be considered to strengthen the oversight regime (see measures introduced in Germany).

Regarding Industrial and commercial customers: They also benefit from the high liquidity of the futures market if they decide to hedge their purchases. Energy-intensive industrial customers may have an interest in hedging even more long-term. The better the PPA market develops, the more successful this will be.

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

*2000 character(s) maximum*

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

- Yes
- No



Do you have additional comments?

*2000 character(s) maximum*

No. Otherwise there would also be a contradiction with the comments made under Q2.

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

- Yes  
 No

Do you have additional comments?

*2000 character(s) maximum*

Nordic as a negative example: liquidity very much collapsed. Hub price cannot be full hedged -> generates basis risk.

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

- Yes  
 No

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

*3000 character(s) maximum*

## 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*

Investments in new capacity - Yes, however CfDs are an important instrument rather for very large producers and consumers. Entry barriers on both sides of the market are high. Additionally (see Germany), long lead times, eventual following obligations for companies and regulatory uncertainties might lead to lower attractiveness of this support instrument.

in that regard, the use of CfD should always remain voluntary and should be designed to avoid harm to the flourishing private market for renewables.

With regards to the Impact on short term markets, the answer is not so obvious. The CfD in itself will not have much of an impact. The generators will still "offer" that electricity on the wholesale market for the same price as today (close to zero).

The (positive) impact of CfD on prices for end consumers might come if the money coming from the payback mechanism is channeled back to end consumers, but that is a separate question.

Also there might be some negative impact of this as well. having the wholesale electricity market dictate revenues creates an incentive for operators to invest in energy storage to switch some of the generation from night to day when the prices are higher - this is positive.

In summary, two-way CfDs, in parallel with the development of private market-based PPAs will mitigate the impact of short-term markets on the price of electricity paid by consumers if these instruments are adequately designed (e.g. choice of CfD reference price, voluntary participation) .

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*

The CfD for offshore wind energy in UK and other countries have proven very successful in bringing down technology cost and accelerating expansion with low cost of capital.

CfDs are a good instrument - but it should not be expected that the price smoothing effect will come naturally from the use of CfDs alone. Their design, as commented in previous question is very important.

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

*2000 character(s) maximum*

Those that have high capex and low operating cost but are weather dependent and thus cannot decide when to produce .However, such design details should be left to Member States.

We would like to emphasize that CfDs should remain voluntary. While the use of CfDs is worth exploring as part of lowering the risk of investment in renewable energy, it is crucial that such scheme is designed appropriately and should remain optional for developers such that merchant renewable energy projects are not undermined where the private sector has the ability to internalize and settle potential price risks via business-to-business PPAs and/or forward hedging.

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

*2000 character(s) maximum*

To increase certainty on revenue and thus reduce cost of financing.

To allow governments to recover their support if prices go above the needed revenue of the producer. And if that support came from customers bills, to use that money to reduce those bills.

What technologies should be excluded and why?

*2000 character(s) maximum*

While we believe that voluntary CfDs can play a role, they are never completely flawless. No matter which tweaks you apply. The higher the share of CfDs, the higher their (negative)\* impact. This is why it is crucial that CfDs remain voluntary.

\*A large use of CfDs could potentially result in a strong decrease of forward markets liquidity that could be detrimental to all actors. Additionally, Using primarily CfDs for promoting the investments needed for the

energy transition would imply two attention points:

- (i) the amount of public money available is intrinsically limited while the need for investments is huge and
- (ii) the incentive to develop integrated and innovative solutions could be lower.

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*

- Depending on the reference period of CfDs, price signals are eliminated for producers leading to inefficient investment and dispatch decisions.
- Requiring all new capacities to be subject to a support scheme based on central procurements leaves the expansion of renewables entirely to the issuer of the support scheme (probably the government), who will centrally plan quantities and technologies to be built in each procurement period. A wrong parametrization bears the risk to lead to high costs, to miss expansion targets and to kill innovative technologies. It would reverse the successful market integration of renewables that do not necessarily need governmental support anymore and are increasingly financed via the wholesale market and private long-term contracts (PPAs). Governmental support should accompany the flourishing private market for renewables where needed, but not replace it. Depending on the design, 2-sided CfD would create incentives for inefficient dispatch due to "virtual marginal costs", i.e. if producers anticipate costs they will have to pay for any additional energy unit produced

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

*2000 character(s) maximum*

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

*2000 character(s) maximum*

yes, it should be return to consumers if those were supporting the CfD development.

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

Such detailed design principles should be left to the member states.

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

Free market exposure after end of the CfD.

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

no retroactive changes. it damage investors certainty and increase cost of capital

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

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

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

*2000 character(s) maximum*

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

- Yes  
 No

Do you have additional comments?

*2000 character(s) maximum*

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*

PPAs > CfDs (but with revenues getting back to the market participants) > forward hedging > CFDs (without revenues going back to market participants)

In any case, forward hedging, PPAs, CfDs, decentralized generation, etc. have all a role to play to mitigate exposure to short-term volatility for consumers. They should co-exist and not be opposed as they provide solutions for different needs.

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## Subtopic: Accelerating the deployment of renewables

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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](https://energy.ec.europa.eu/system/files/2022-09/Congestion%20offshore%20BZ.ENGIE%20Impact.FinalReport_topublish.pdf)

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

- Yes
- No

Do you have additional comments?

*2000 character(s) maximum*

Granting access to the network is detrimental, not only to offshore renewables, but to the development of flexibility solutions that maximizes the installation of renewables while rationalizing electricity infrastructure (e. g. electrolyzers, batteries or others). Respecting market-based principles for allocating transmission rights as established in the current Regulation and keeping the incentives to be flexible to off-shore generation is very relevant for future flexibility solutions.

In addition, the economic impact of the compensation for capacity reductions (by TSOs) could be huge and detrimental to the whole sector. This would call for an integrated electricity and hydrogen solution planning, that would be more efficient and cheaper .

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

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	Yes	No
At national regulatory or administrative level	<input checked="" type="radio"/>	<input type="radio"/>
In the implementation of the current EU legislation, including by developing network codes and guidelines	<input checked="" type="radio"/>	<input type="radio"/>
Via changes to the current electricity market design	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>

## If yes, please specify

*2000 character(s) maximum*

- Permitting processes. increase staff and reduce redundant process, multiple interlocutor, etc.  
- more data sharing among governments, NGOs and industry to accelerate the EIA.  
Fast and harmonized way of implementing network codes and directives (e.g. RED2 has not been yet implemented in many MS)

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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*

The current way of funding new grid investments via tariffs works well because TSOs are guaranteed to get a return on each investment.  
However, more emphasis should be put on differentiating new investments and on making better use of the current infrastructure (TSO are not always well incentivized to use all the available capacity).

The issue is more with regards to planning and identifying necessary investments. RES integration is not always a priority, or at least not in all countries. And the inclusion of other technologies such as power-to-hydrogen is not part of the planning and system needs identification process. Appropriate anticipatory grid infrastructure investments (electricity & hydrogen) are crucial, with respect to long term EU climate and RES goals.

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## 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.

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

- Yes
  - No
- 

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

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

(b) its impact on decarbonisation

(c) security of supply

(d) investment signals

(e) legitimate expectations/legal risks

(f) fossil fuel consumption

(g) cross border trade intra and extra EU

(h) distortion of competition in the markets

### (i) implementation challenges

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Do you have additional comments?

*3000 character(s) maximum*

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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*

There should be coordination to avoid distortion among markets in different MS

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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*

it could be a good option to return those revenues to customers in a proportional way, based on how those customers have contributed to support those inframarginal technologies that are being cap. For instance, if a residential customer is paying to support solar PV in their tariff levy but large energy users are not, then only residential consumers should receive the money back. For existing assets that are not specifically supported by type of consumers (Nuclear, hydro), it could be done proportionally to their electricity consumption.

In any case, the choice should be left to Member States.

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## Alternatives to Gas to Keep the Electricity System in Balance

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

the short-term markets would remain key to ensure efficient dispatch. The short-term markets also ensure efficient exchanges of electricity across borders.

Well-functioning short-term markets require healthy competition between market participants so that they are incentivised to bid at their true cost and regulators have the necessary tools to detect any kind of abusive or manipulative behaviour. Demand response, storage and other sources of flexibility must be put in a situation where they can compete effectively so that the role of natural gas in the short-term market to provide flexibility is progressively reduced, which will bring multiple benefits including lower electricity prices for consumers. To ensure this, targeted changes to the functioning of short-term markets could be envisaged, which could include:

#### *Incentivising the development of flexibility assets*

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

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

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

*Developing new products to foster demand reduction and shift energy at peak times:* To foster demand reduction and energy shifting (through demand response, storage and other flexibility solutions) at peak times, a peak shaving product could be defined and considered as an ancillary service that could be bought by system operators. Such a product could be auctioned a few weeks/months ahead (with a capacity payment) and activated at peak load (with an energy payment), considering renewables generation, therefore contributing to phasing out gas plants from the merit order, and contributing to lowering the price.

Demand reduced could also be shifted to another point in time, outside of peak times. This would incentivize flexibility when fossil fuel capacity is needed the most in the system. It would be important to ensure such a product is cost effective if implemented over the long term.

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

*Improving the efficiency of intraday markets*

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

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

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

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

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

- Yes
- No

Please explain

2000 character(s) maximum

It can be complemented by a capacity market and another one for ancillary services but in general the merit order system is a good one

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

3000 character(s) maximum

it will not because the price signal is not strong enough (price is volatile over long term periods). and it only looks at CO2 emitted, not at the time when it is emitted (or avoided)

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

Lack of Liquidity

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

- Yes
- No

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

2000 character(s) maximum

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

- Yes
- No

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

2000 character(s) maximum

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*

more optimal for TSO but a lot more requirements for market players, increasing admin burden and costs for them and increasing the merit order clearing price.

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*

Specific auctions for investment in new capacity and complementary markets to the whole sale electricity market (e.g. Capacity markets)

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 have additional comments?

*2000 character(s) maximum*

it will help to deploy more flexibility for the grid management (Short term management)

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*

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*

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*

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*

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

Yes

No

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

*4000 character(s) maximum*

Current capacity mechanisms, as established in the Electricity Regulation, are aimed to solve adequacy concerns, not to provide investment signals to generators that provide many services (besides active power).

There is a need to define new services/market products that could help with two goals:

1. peak shaving and 2. system adequacy coupled with long-term seasonal storage

1. Peak shaving and electrolysers flexibility:

We should envisage the introduction of mechanisms that can incentivise the production of electrolytic hydrogen while also helping with peak shaving (with consequently much lower full load hours). Electrolysers can in principle already participate to frequency response markets they but might need special mechanisms to make better use of the system-friendly characteristics (especially regarding locational signal), otherwise it won't happen and we will always have the dissonance of on the one hand what helps the system vs. what is commercially feasible.

2. System adequacy:

Hydrogen in power generation cannot compete with other forms of dispatchable generation (gas, oil peakers) because the relative price ratio between natural gas plus CO2 costs and green/blue hydrogen is also decisive for the actual use\*. Therefore the market will not solve it alone, and, specially during the transitional period, it is necessary to take the market risk for the use of H2 off the power plant operators. This could be done by issuing CfDs; In this way, any cost differences between natural gas including CO2 and H2 can be compensated so that there is no incentive to use only natural gas as a fuel. This could be also done by introducing some form of a capacity mechanism for green hydrogen; this should be closely link to the capacity to store renewable energy for long periods and to provide that capacity when renewable are not abundant in the market to satisfy peak loads.

Using renewable/low carbon hydrogen in power generation brings many additional benefits that are not reflected in a classical capacity market: allowing to reduce curtailment of renewables, reducing congestion costs and tapping into negative electricity prices, which can also imply higher consumer prices to cover for support in CFDs .

\* Electricity generated with natural gas (including the CO2 price) is by far less expensive than with green hydrogen. The levelized cost of electricity with hydrogen at 4€/kg translates into approx. 214 €/MWh for a combined cycle power plant. The levelized cost of electricity with natural gas with a CO2 price of 50€ is 55€/MWh (figures pre- energy crisis). Bridging this gap and creating price parity will require a CO2 price of 525€/tCO2. If the costs fall to 2€/kg of hydrogen, 235€/tCO2 are sufficient to create price parity (assuming the same price for natural gas).

Do you have additional comments?

*4000 character(s) maximum*

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

- Yes  
 No

Do you have additional comments?

*3000 character(s) maximum*



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## Better Consumer Empowerment and Protection

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

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

### *Increasing possibilities for collective self-consumption and electricity sharing*

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

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

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

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

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

### *Adapting metering to facilitate demand response from flexible appliances*

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

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

#### *Better choice of contracts for consumers*

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

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

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

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

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

#### *Strengthening consumer protection*

### *A) Protecting customers from supplier failure*

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

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

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

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

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

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

[3] Spain, Croatia, Italy ,France.

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

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

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

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

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### *Energy sharing and demand response*

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

- Yes
- No

If such a right were introduced:

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

- Yes
- No

(b) Should it be restricted to local areas?

- Yes
- No

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

- Yes
- No

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

- Yes
- No

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### *Offers and contracts*

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

- Yes
- No

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

*at most 1 choice(s)*

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

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

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

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

- Yes
- No

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*Prudential supplier obligations*

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

- Yes
- No

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

- Yes
- No

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

- Yes
  - No
- 

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

- Yes
- No

Do you have additional comments?

*2000 character(s) maximum*

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## Enhancing the Integrity and Transparency of the Energy Market

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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.

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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*

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