

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

Fields marked with * are mandatory.

Electricity Market Design

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

[EMD Consultation document.pdf](#)

Introduction

Background

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

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

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

The EU Electricity Market Design

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

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

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

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

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

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

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

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

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

unaffordable bills for many consumers and companies.

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

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

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

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

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

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

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

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

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

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

Alternatives to Gas to Keep the Electricity System in Balance

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

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

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

Lessons Learned from Short Term Market Interventions

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

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

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

Better Consumer Empowerment and Protection

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

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

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

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

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

Stronger Protection against Market Manipulation

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

Next Steps

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

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

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

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

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

About you

* Language of my contribution

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

* I am giving my contribution as

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

* First name

Chiel

* Surname

Bakker

* Email (this won't be published)

cb@vemw.nl

* Organisation name

255 character(s) maximum

IFIEC 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

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
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino

- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- 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
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
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- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
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- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
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- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
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- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Türkiye
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
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| <input type="radio"/> Cyprus | <input type="radio"/> Latvia | <input type="radio"/> Saint Barthélemy | <input type="radio"/> Yemen |
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Nevis | <input type="radio"/> Zimbabwe |
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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

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

Making Electricity Bills Independent of Short-Term Markets

Subtopic: Power Purchase Agreements (PPAs)

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

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

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

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

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

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

- Yes
- No

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

2000 character(s) maximum

Power Purchasing Agreements (PPAs) are a useful tool for industrial energy users, as part of their long-term hedging strategy, to protect themselves against uncertain price developments in other markets. However, PPAs will not solve the competitiveness issues of industries based in the EU in the short-term. IFIEC sees the following barriers to PPA conclusion, from the perspective of industrial energy users:

1. A lack of supply, mainly due to long lead times and uncertainty in authorization and permitting processes;
2. Unfair competition by subsidies, CfDs with a public counterpart;
3. The cost of profiling (to transform an as-produced profile to a baseload profile necessary for industry) is neither predictable nor hedgeable. This point has become more important because of the 'cannibalisation' effect with the increasing shares of solar and wind generation;
4. Substantial transaction costs to concluding PPAs, including significant costs for guarantees;
5. Credit rating: energy intensive industries, even if very large and with solid financial position, have insufficient credit rating;
6. A lack of a transparent marketplaces for PPAs and a resulting lack of price references;
7. A lack of adequate grid capacity to facilitate new power park modules;
8. An inability for organisations with any kind of governmental relation to participate in PPAs (such as building-managers) because of the obligation to tender.
9. Quality requirements for PPAs such as additionality, temporal and geographical correlation add considerable costs and complexity.
10. The rigid nature of current PPAs, leaving little room for adapting the electricity produced to individual consumer needs.

PPAs must always be voluntary to avoid disrupting efficient and transparent price formation, to avoid disrupting the ability for market parties to manage their (price) risks, and to avoid the obstructing of market parties' access to competitive prices.

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

Access to PPAs through the pooling of smaller customers, is not detrimental to industrial end users. IFIEC sees no evidence that this possibility is currently being restricted.

Combining state-supported schemes with PPAs does not appear necessary for PPAs to deliver what end-users need them for, e.g. to facilitate risk-management opportunities and access to competitive prices.

However such schemes introduce distortion in efficient and free price formation in the PPA market and lead to an unlevel playing field among potential suppliers on this market.

Forced standardisation of contracts would limit freedom of market parties to shape contracts according to the needs of suppliers and end-users. This may limit industrial users' access to electricity which fits individual consumer needs. PPAs are largely tailor-made; enforcing standardisation would simultaneously help the trading of PPAs while harming the total supply of PPAs. Enforced contract standardisation would have a net negative effect on liquidity.

Requiring suppliers to procure a predefined share of their consumers' energy through PPAs limits the ability of suppliers to freely and optimally risk-manage their portfolios. Suppliers are better at identifying price-optimal portfolio mixes than governments can prescribe them.

MS borders currently limit access of industrial consumers to PPAs. Facilitating cross-border PPAs, which may also be done through hybrid projects, can help avoid electricity grid limitations.

PPAs must always be voluntary to avoid disrupting efficient and transparent price formation, to avoid disrupting the ability for market parties to manage their (price) risks, and to avoid the obstructing of market parties' access to competitive prices. PPAs are not the only tool to allow for hedging or the managing of (price) risk by end-users. It is desirable to let the market utilize the most effective tools risk-management tools as part of their hedging strategy, instead of obligating one.

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

PPAs are functioning as desired, and their limited availability/supply is a result of other hindrances, such as regulatory issues or lack of grid capacity. Electricity market design is not a significant hindrance to their uptake; many other issues exist, which are not a part of market design. IFIEC stresses that these barriers, as outlined under question #2, form the actual hindrances to PPA uptake which should be fixed..

In order to facilitate and foster the use of PPAs, the creation of voluntary market places should be considered, in conjunction with products for the long-term negotiation of 'time-shifting' services that could be offered by storage, demand response or other flexible resources .

PPAs must always be voluntary to avoid disrupting efficient and transparent price formation, to avoid disrupting the ability for market parties to manage their (price) risks, and to avoid the obstructing of market parties' access to competitive prices. PPAs are not the only tool to allow for hedging or the managing of (price) risk by end-users. It is desirable to let the market utilize the most effective tools risk-management tools as part of their hedging strategy, instead of obligating one.

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

- Yes
- No

Please explain

2000 character(s) maximum

This question is unclear. There are numerous hypothetical possibilities to provide stronger incentives, but this does not mean it is desirable. Incentivizing existing generators to enter into PPAs could be done through subsidies, financial incentives or legal obligation, are all possibilities, but not desirable. Forcing existing generators to enter into PPAs for a part of their current capacity, would disrupt transparent and efficient price formation, artificially restrict risk management opportunities for both suppliers and consumers. Furthermore, no artificial obligation as proposed here is required, as parties who wish to sign a PPA are free to do so and will create the required demand.

PPAs must always be voluntary to avoid disrupting efficient and transparent price formation, to avoid disrupting the ability for market parties to manage their (price) risks, and to avoid the obstructing of market parties' access to competitive prices. PPAs are not the only tool to allow for hedging or the managing of (price) risk by end-users. It is desirable to let the market utilize the most effective tools risk-management tools as part of their hedging strategy, instead of obligating one.

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

2000 character(s) maximum

Undertakings of different sizes may have different possibilities to enter into certain types of contracts. This is normal and does not mean a distortion of the level playing field. It does underline the importance to refrain from obligations on market parties on how they should sell, buy or trade on the market.

Access to PPAs need not be restricted to larger undertakings. Therefore, a larger market share being taken care of through PPAs need not be an issue.

The level playing field between undertakings in different member states is a difficult question. On the one hand, more PPAs may be available in one member state (MS) than another. Assuming PPAs may be contracted cross-border, grid capacity is the limiting factor for the level playing-field rather than PPA availability. Understood by itself, therefore, PPAs in themselves should not affect the level playing field between MS.

It is unclear how PPAs would form a risk for electricity generation based on fossil fuels.

PPAs, by themselves, pose no risk for end-user costs. This is based on the assumption that the market is free to determine the optimal amount of electricity consumption contracted through PPAs as part of each consumer's hedging strategy.

PPAs must always be voluntary to avoid disrupting efficient and transparent price formation, to avoid disrupting the ability for market parties to manage their (price) risks, and to avoid the obstructing of market parties' access to competitive prices. PPAs are not the only tool to allow for hedging or the managing of (price) risk by end-users. It is desirable to let the market utilize the most effective tools risk-management tools as part of their hedging strategy, instead of obligating one.

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

We receive many signals from our members that current electricity forward market liquidity is very low. The churn factor for electricity is relatively low compared to gas, signalling low liquidity. The relatively low liquidity hinders efficient and transparent price formation, which is a requirement for effective (forward) market functioning

In the Nordic countries, the basic index of financial electricity products is a hub price (system price) . The main reasons for low liquidity in the Nordic forward market is linked to collateral costs and reporting requirements and small, unbalanced bidding zones, and not the market design as such. Power exchanges must be free to develop hedging products in line with demand and introducing market making if they find it beneficial. TSOs should not be obliged to auction hedging products or support liquidity in forward markets

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

2000 character(s) maximum

Regulatory and legal uncertainty regarding new policies indirectly increase the risk of concluding forward contracts. In addition to these overarching risks, a lack of adequate supply of forward-market electricity products also hinders entering into forward contracts. In addition, industries will seek electricity that suits their individual business needs. This means the desirability of forward-products will be dependent on the risk management strategy employed by each industrial energy user. For example, certain end-users may wish to link the price they paid for electricity to the price at which they sell their final products. The price for their final products would in that case be set some time in advance, varying for different end users. This will limit the desirability of forward-market products for such end-users to, at maximum, the period for which they have agreed a price for their final products. In other words, a chemical plant which agrees to sell their product for X euros 6 months in advance, will generally not wish to include contracting electricity 12 months in advance as part of their hedging 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

This would artificially hinder the risk-management strategies of suppliers; certain specific suppliers may supply customers which have individual electricity needs that do not benefit from hedging. Forcible hedging would force the end-users to contract electricity products which do not fit their individual consumer needs, and therefore is not desirable.
Greater transparency would enable hedging, which would render obligations unnecessary.

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

Most importantly, virtual hubs as described here should arise as a result of market demand instead of being enforced top-down. Virtual hubs will not in themselves address issues with lack of generation capacity or lack of liquidity. Moreover, the reliability and predictability of the day-ahead market price is a basic requirement for a well-functioning liquid financial market. General indices are possible to base on the foundation of a reliable day-ahead market.

Liquidity is generally more easily created at a higher level where more parties are able to participate. For this reason, a virtual hub (should the market deem it to have value) at the EU-level could function as such. Simultaneously, the current German electricity market is fulfilling a somewhat similar function as is proposed here. The total beneficial effect is difficult to estimate.

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

The swift and thorough implementation of currently existing legislation, reinforcing the European single market, would enhance forward market liquidity. Lowering barriers to entry for new entrants to the market, both on the demand and supply side, would indirectly facilitate forward market liquidity. Furthermore, to avoid hindering efficient and transparent price formation, interconnector capacity should not be unduly withheld. The Commission has enforced a minimum 70 percent minimum remaining available margin requirement (MinRAM) for interconnectors by 2020, with transition periods until 2025. This MinRAM is currently applied exclusively to forward and day-ahead timeframes. This selective application may lead to suboptimal market functioning. This same minimum 70 percent MinRAM should also be applied to interconnectors for intraday markets. With regard to forward markets, For forward, we want TSO to make capacity available as soon as they can.

Market making for financial products which are essential to the market (i.e. for electricity buyers), should be made possible with a view to the needs of electricity buyers. IFIEC supports the ongoing work from ACER /Commission on assessing liquidity on forward markets. Furthermore, IFIEC is concerned about the increased TSO costs linked to obliging TSOs to support liquidity in forward markets, as these costs will be passed on to consumers through higher grid costs. European TSOs have mostly had a net loss of supporting forward hedging by auctioning transmission rights. This is covered by consumers, while many large consumers do not find it attractive to hedge by using these instruments. Market making is not a task of the system operator.

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

This question contains two questions. The answer to the first question is no: CfDs or similar arrangements do not directly affect the electricity price and offer no solution in the immediate, short term.

The more important, second part of the question, must be answered affirmatively: two-way contracts or similar arrangements can be a way to support investments in new capacity when the market cannot by itself realise adequate investments. Two-way contracts as described here, are a form of subsidy, and therefore should be subject to similar considerations as other forms of national subsidy before being considered.

Furthermore, CfD's may result in socializing the (financial) risk and privatising profits. Due to market functioning as the share of renewables increases (leading to more hours of prices close to €0,-/MWh), two-sided CfDs risk becoming in effect one-sided. This one-sidedness in practice is further strengthened by the fact that when electricity prices are high, there will generally be very little wind or solar production, meaning the state will not receive money. There are concrete examples of this one-sidedness happening in other countries such as the UK.

Partially due to this risk, IFIEC has concerns about allowing generators – which were realised under CfDs – once amortized should be allowed full profits. There is a good argument to be made that the CfDs will in effect be closer to one-sided, which could justify limitation of long-term profits if the project was realised through a CfD.

IFIEC can support two-sided CfDs as a tool for subsidising renewables, but only where a subsidy is necessary to fix specific market or regulatory failures. Furthermore, the preferred solution above subsidies would be to fix the market and regulatory failures in question. Mature technologies should not require subsidies. Without subsidies, efficient and transparent price formation can take place and the lowest total electricity system cost may be achieved.

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

When new investments in inframarginal electricity production is publicly financed, two-way contracts are a form of subsidy which enables the state to artificially limit the risk for the investor on both loss and profit. When comparing CfDs with other forms of subsidy, they may offer benefits. It is important that adequate supply of electricity to meet all system demand is ensured. This goal must be achieved in an efficient way and with the lowest overall system costs to preserve competitiveness and by limiting the risks of market distortion and fragmentation of the EU single market.

In the current market design, day-ahead markets (DAMs) play a crucial role both as a market platform and a dispatching mechanism to ensure that the assets with the lowest cost in the merit order are activated first. This incites generators to bid in at or close to their marginal costs and leads to the lowest system cost. Marginal pricing and the 'pay-as-cleared' mechanism have proven to be the most efficient way of organizing commodity and other markets, though they come with certain disadvantages.

The Commission does not analyze the alternatives for marginal pricing and the 'pay-as-cleared' principle. Though these alternatives also have pros and cons, IFIEC invites the Commission and regulators to continue to assess the potential of these alternatives to cope with the current extreme circumstances.

Inframarginal rents provide generators with additional resources to invest in new, more performing assets. IFIEC suggests the Commission thoroughly assess the impact of high inframarginal rents on the need for Capacity Remuneration Mechanisms (CRMs) to compensate generators for 'missing money'. Most CRMs in the EU only look at individual assets' viability without taking into account the overall return of generators with a portfolio of assets. If society judges inframarginal rents as excessive, they could be taxed without distorting the energy market and investment signals.

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

2000 character(s) maximum

Those non-mature generation technologies which can effectively be argued to require financial support in the form of subsidies. Subsidising of generation capacity may be desirable as a result of MS policy (possibly to correct regulatory failures) or to correct for market failures leading to underinvestment. Any measures of subsidising must be carefully assessed and limited to the minimum that is absolutely necessary to address the identified market failures. They must be coordinated at an EU-level, designed in a way to minimize the total cost and must define in advance how these costs will be allocated

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

2000 character(s) maximum

Those non-mature generation technologies which can effectively be argued to require financial support in the form of subsidies. Subsidising of generation capacity may be desirable as a result of MS policy (possibly to correct regulatory failures) or to correct for market failures leading to underinvestment. Any measures of subsidising must be carefully assessed and limited to the minimum that is absolutely necessary to address the identified market failures. They must be coordinated at an EU-level, designed in a way to minimize the total cost and must define in advance how these costs will be allocated

What technologies should be excluded and why?

2000 character(s) maximum

Those generation technologies which do not require financial support or are not exposed to market or regulatory failures.

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

Two-way contracts would externalise both losses and profits beyond a certain agreed upon range, to the state and the tax-payers. If these subsidies exist as a tool for increasing development of inframarginal generation installations, short-term markets would benefit from an increase in supply-side entries. This would, seen in isolation, positively impact short-term markets indirectly. Simultaneously, this is a market distortion, incentivizing certain technologies over others. It is possible regulatory failures or market failures could justify subsidies. Simultaneously, subsidies are only justified as market interventions where one such failure is identified.

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

In order to limit the risk of suboptimal energy mixes due to subsidizing specific electricity generation technologies, it could be useful to ensure those energy generation technologies are subsidised which will play a significant role in the future energy system. A clear target for these subsidies is required. For example, acquisition of adequate CO₂-free, flexible capacity can be achieved through technology-neutral means; a technology-neutral tender could ensure the lowest total electricity system costs, whilst taking into consideration the value of unconventional sources of flexibility such as demand side response.

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

Two-way CfDs are by definition a form of subsidy, through allowing electricity-generators to benefit from an artificially lowered financial risk. This subsidy would enable the development of electricity generators that would not otherwise be built. The added supply which would not otherwise exist provides the main benefit to end-users that justifies the subsidy, as they contribute to more competitive prices. In a typical CfD, this risk is externalized to the state.

If the costs and pay-out generated by two-way CfDs are channelled back proportionally to the energy end-user, they would function exactly the same as a PPA. This question therefore appears to mix the key components of CfDs and PPAs. If CfDs function as implied in this question, they have no clear added value over PPAs while, having CfDs a “standard” structure, they are unable to fit the need of each consumer (or group/type of consumers) leading to lower opportunities for them in adequately manage their own risks. Lastly, the choice for any kind of subsidy, as well as the choice between subsidies, is a political decision. The resulting risk regarding ineffective back-channelling of profits is therefore also political.

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

A CfD functions to artificially increase the development of certain generation technologies; the duration of the CfD should be no longer than is needed to elicit the required investments to compensate for market and regulatory failures.

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

It is not clear how restricting transparent and efficient price formation after the expiration of the CfD would positively affect market functioning. It may contribute, in the long term, to the formation of competitive prices, which may justify longer-lasting limits on the earning potential of new generation units, insofar as such limits do not negatively affect the investment signals. It is unclear how such limits could exist without negatively affecting investment signals.

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

Imposing two-way CfDs on existing capacity would heavily distort market functioning and ex-post increase the regulatory risk. This may disincentivize new investments in generation capacity. It is unclear what problem this would solve, as CfD's are supposed to be a tool to subsidise the development of new generation installations. This highly disruptive action would not achieve that goal.

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

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

This question is incomplete without the criterion: for what precise goal would it be enough,? Main goals for European industry are access to competitive prices, adequate risk management opportunities, access to sufficient supply to ensure system stability, minimised total electricity system cost, and access to electricity that fits individual consumer needs. A revenue ceiling could, in certain specific forms, contribute to competitive prices. It could also, in other forms, contribute to less competitive prices. For European industrial energy users, imposing a revenue cap on existing generation capacity as a tool ceteris paribus cannot be said to unambiguously contribute to competitive prices. If the hypothetical revenue ceiling is too low or too high, it could restrict new investments or be useless, respectively. A revenue cap,

applied at an effective level and with the finances gained through the cap applied to measures compensating for the effected market distortion, may be effective at facilitating competitive prices.

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

This is a leading question, as of course all the tools mentioned here have limits as well. The market can best decide what balance is required between forward hedging and short-term trading to strive for the most competitive prices. PPAs, CfDs and forward hedging are different tools to somewhat overlapping ends: to allow end users to manage their (financial) risks. PPAs can be part of a hedging strategy by which an end user aims to reduce their financial risks. Forward hedging can be another tool to manage these risks. CfDs are a form of subsidy, aimed at enabling greater supply, leading indirectly to more competitive prices if it can be assumed that this supply would not materialize without the CfDs and that the technologies subsidised can provide electricity fit to the end-user needs. In short, these tools are complementary to each other. CfDs should be activated only after removing or sharply reducing the barriers that currently prevent the development of PPAs at forward markets and, in any case, after careful assessment to set their characteristics (prices, volumes, allocation criteria, technologies) to minimize potential distorting effects and overall costs to the system.

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

Please explain and outline possible alternatives.

2000 character(s) maximum

Access to the electricity grid, and therefore transmission system access, is already guaranteed under existing legislation. Directive (EU) 2019/944, article 6 enshrines the right of third party access, and does not exclude renewable generators from this right . It is furthermore enshrined in Regulation 2019/943 Art. 3 point q). This right therefore should not be an effective tool in supporting specific generator types . There is no need for an alternative to third-party access guarantees. Renewable generators have no use for electricity grid if end-users are not connected either.

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

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

If yes, please specify

2000 character(s) maximum

At a national and regulatory level, permitting rules and regulatory risks may respectively hinder and disincentivise investments. The most appropriate tool to fix the resulting lack of incentives, is removing these failures.
The complete implementation of existing network codes and guidelines would help in accelerating the deployment for renewables, for example through facilitating optimal use of scarce grid capacity through

better monitoring of grid capacity and implementation of systems for managing grid congestions. Furthermore, there is a significant financial push to further incentivize renewable energy generators through the EU-ETS. If this system works properly and no market distortions are present, there would not be any justification for subsidies.

Do you have additional comments?

2000 character(s) maximum

N/A

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

To ensure adequate, cost-efficient investments in network infrastructure, it is necessary that generators also receive fair and adequate price signals to avoid unambiguously inefficient use of grid capacity. Inefficient grid expansions to accommodate peak-hour production of renewables, only present for a small number of hours per year and at times when electricity has very low or even negative values, are generally not desirable. Grid tariffs for energy producers are a critical tool for enabling efficient grid expansion and grid use. Furthermore, before investments are made there should be an optimization of the utilization of the existing grid capacity.

Currently, EU-legislation artificially limits the contribution of electricity producers to the electricity grid on which they depend through Commission Regulation (EU) No 838/2010. Considering the currently record-high profitability of electricity generators, as well as the urgent need for adequate incentives for producers to avoid inefficient grid use, IFIEC stresses the need for removal of these artificial tariff limits for producers. Without removal of these limits, it will be impossible to achieve the lowest total electricity system cost.

Current limitations of grid infrastructure throughout all Member States should be analysed not only considering the need to develop new renewable production capacity but also the EU strategy of electrification of energy consumptions. As such, these public infrastructures should be looked upon as strategic asset for both purposes, and public funding at European or Member State level should be assessed. Public funding or investment programs at EU level should be promoted to avoid increased energy costs to consumers while ensuring cost effectiveness of such infrastructures.

Subtopic: Limiting revenues of inframarginal generators

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

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

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

- Yes
 - No
-

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

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

(b) its impact on decarbonisation

(c) security of supply

(d) investment signals

(e) legitimate expectations/legal risks

(f) fossil fuel consumption

(g) cross border trade intra and extra EU

(h) distortion of competition in the markets

(i) implementation challenges

7

Do you have additional comments?

3000 character(s) maximum

The level of a revenue limitation should not be as such to hinder transparent and efficient market price signals. These limitations must not distort the merit order, must not hinder investment signals and must not lead to (regulatory) risk which in the long term could increase total electricity system costs. Such a revenue limitation is warranted to capture excessive profits in exclusively exceptional circumstances, and should apply only once all price signals required for investments have been captured by the market price and at the point where other factors than market price determine investment in new generation capacity. Such factors could be grid capacity or regulatory limitations (e.g. permitting rules). However, due to its nature, any revenue limitation will distort the market.

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

The inframarginal rent tax and the revenues cap in their current form are of no clear value to European industries. Because its implementation is not harmonised across the EU (see article 7 of Council Regulation 2022/1854 on an emergency intervention to address high energy prices), a prolongation of the inframarginal revenue cap could lead to a fragmentation of the single EU energy market, while creating uncertainty and thus hindering investment in new generation capacity. However, as the effectiveness of different taxation models might vary between member states due to different technology mix, tax schemes should be a national competence and responsibility. Simultaneously, tax systems must not distort investment incentives or cross-border trade.

Before interrupting the market mechanisms in such way (through a revenue limitation) a thorough impact assessment must be carried out to ensure investment signals are not distorted risking slower deployment of new generation capacity and that total system costs are kept as low as possible in the long run. The impact on bidding behavior must be included in the assessment.

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 an inframarginal revenue cap is aimed at ensuring competitive electricity prices, the prices could be channelled directly to end-users proportional to their energy consumption. It could also be partially used to allow more long-term solutions to the lacking supply of competitively priced energy, insofar as long-term solutions are feasible and do not risk short-term, irreversible damage to energy-intensive economic processes. Long-term solutions could include enhancing grid expansions or facilitating more investments in generation capacity.

Alternatives to Gas to Keep the Electricity System in Balance

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

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

Incentivising the development of flexibility assets

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

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

Using sub-meter data for settlement and observability: The deployment of smart meters as envisaged in the Electricity Directive is delayed in several Member States. In addition, smart meters do not always provide the level of granularity required for demand response and energy storage. In these situations, it should thus

be possible for system operators to use sub-meter data (incl. from private sub-meters) for settlement and observability processes of demand response and energy storage, to facilitate active participation in electricity markets (see also section “*Adapting metering to facilitate demand response from flexible appliances*” in the section on “**Better consumer empowerment and protection**”). The use of sub-meter data should be accompanied by requirements for the sub-meter data validation process to check and ensure the quality of the sub-meter data. Access to dynamic data of electricity consumed (and injected back to the grid) notably from renewable energy sources helps increasing awareness amongst the consumers and allows shifting demand towards renewable electricity.

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

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

Improving the efficiency of intraday markets

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

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

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

	Yes	No
(a) accurately reflecting underlying supply/demand fundamentals	<input checked="" type="radio"/>	<input type="radio"/>
(b) encompassing sufficiently liquidity	<input checked="" type="radio"/>	<input type="radio"/>

(c) ensuring a level playing field	<input checked="" type="radio"/>	<input type="radio"/>
(d) efficient dispatch of generation assets	<input checked="" type="radio"/>	<input type="radio"/>
(e) minimising costs for consumers	<input checked="" type="radio"/>	<input type="radio"/>
(f) efficiently allocating electricity cross-border	<input checked="" type="radio"/>	<input type="radio"/>

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

- Yes
- No

Do you have additional comments?

2000 character(s) maximum

In the current electricity market design, day-ahead markets (DAMs) plays a crucial role, both as a market platform and as a dispatching mechanism to ensure that the assets with the lowest cost in the merit order are activated first, which incites generators to bid in at or close to their marginal costs and thus leads to the lowest system cost for all consumers. Marginal pricing and the “paid-as-cleared” mechanism have proven to be the most efficient way of organizing commodity and other markets, although they come with certain disadvantages.

In the consultation, the Commission does not analyze in detail the possible alternatives for marginal pricing and the “paid-as-cleared” principle. Though these alternatives have advantages and disadvantages of their own, IFIEC Europe invites the Commission and regulators to continue to assess the potential of these alternatives to cope with the extreme circumstances the markets are currently experiencing.

Inframarginal rents provide generators with additional resources to invest in new, more performing assets. IFIEC Europe therefore suggests the Commission also thoroughly assesses the impact of high inframarginal rents on the need for Capacity Remuneration Mechanisms (CRMs) to compensate generators for “missing money”. Most CRMs in the EU today only look at individual assets’ viability without taking into account the overall return of generators with a broad portfolio of assets. If inframarginal rents are judged as excessive by society, they could be creamed off by taxes without, however, creating distortionary effects in the internal energy market, and in a way that does not bias investment signals.

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

3000 character(s) maximum

The EU-ETS incentivises the development of low carbon flexibility and energy storage by putting a price on high-carbon sources of flexibility. It already does this.

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 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

Market participants can best allocate their participation in certain markets themselves. Obligating participation in one market, will by definition remove participation from other markets which market participants would be drawn to based on the highest value for their goods. Forcible shifting of this participation may lead to suboptimal outcomes and while hindering efficient and transparent price formation. Based on historic data, IFIEC prefers voluntary over obligatory participation. Experiences from Great Britain in the early 90s do not support a mandatory stock exchange.

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

These are two questions, on locational-based information (LBI) and on technology-based information. Adding LBI in the bidding in the market may lead to complication and splitting of markets. If the location of a technology influences the energy product bid, this limits the size of the market. Restricting the size of the markets leads to suboptimal outcomes. Energy markets function most efficiently with largely uniform products and high liquidity, with few barriers to entry for new participants. Adding LBI would create more distinguishing features between energy products, restricting trading. Enabling market functioning (unrestricted by LBI) may therefore lead to more competitive electricity prices.

LBI also has positive effects. It allows the taking into consideration of existing grid limitations. This may lead to avoiding electricity grid developments which may be more costly than the economic surplus resulting from the enhanced market functioning. LBI allows for weighing system costs required for facilitating the desired market outcome against the expected economic surplus which would arise from activating/installing facilities on market-preferred locations. This weighing of costs vs market preference may limit total electricity system

costs.

Fundamentally, the usefulness of LBI depends on the interpretation the copper-plate principle which ensures that every third party has a right of access to the energy grid (and therefore the energy market) regardless of their location. Application of the principle makes it so that the electricity grid does not form an artificial limitation on market functioning, and the market is free to activate the most price-efficient installations. The application of this principle is limited, for example through the currently existing bidding zones.

Adding technology-based information would likely lead to market splitting and eventually to nodal pricing, which is strongly undesirable for market functioning.

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

There is a plethora of tools available to enhance development and deployment of demand side response and energy storage, all linked to the main requirements for development of flexibility assets. These are:

- Well-functioning, liquid markets providing ample risk management opportunities;
- Price volatility (without price volatility, there will be no incentive for any form of flexibility from DSR or storage);
- Accurate data (without accurate data, both supply and demand for flexibility services cannot be communicated nor verified. This includes transparent price data.);
- Grid access (without access, it is impossible to connect capacity to supply the service to the market- or grid-based need for flexibility) .

For these main requirements to function effectively, distorting regulatory barriers should be resolved as well (e.g. resolution of existing discussions on demand response vs energy efficiency).

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 should not incentivise the use of it, but rather allow for a fair consideration and weighing against other options. Currently, this is not the case in many member states.

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

Small end-users may, agglomerated, provide significant volumes of flexibility, and a (lack of) sub-meter data should not be a hindrance for these sources of flexibility.

Furthermore, regarding submeters: no artificial restrictions should be placed on which sub-meters are permitted, beyond agreed upon, technical specifications. Artificial restriction of acceptable sub-meters to those provided by system operators, creates avoidable costs for (in particular) large energy users.

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

There is no reason such products could not be offered already.

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

This is largely a semantic question, which is phrased unclearly. What is described here, is in effect curtailment. Curtailment should always be voluntary and remunerated. If applied under these conditions, curtailment can provide a price-efficient contribution to lower total electricity system costs. Demand side response within the context of curtailment, can be a useful and effective tool for creating more acceptable commodity prices. Tenders for reducing energy consumption are a possible tool for managing energy crises. If such demand reduction is set as a requirement, the demand reduction will take place in suboptimal locations and economic damage will be higher than necessary. For this reason, setting demand response as a requirement is not desirable, but demand response as an option (which may prove to be more price efficient than other options) is desirable. To what extent this is desirable to coordinate at an EU-level, is a separate question. Following the principle of subsidiarity would imply that energy reduction is increasingly desirable to arrange at an EU-level due to the increasingly connected energy markets.

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

We do not see incentivizing of DSR as desirable. Removal of all barriers to supplying DSR is, however, both desirable and necessary to achieve the lowest total electricity system costs. There is a plethora of tools available to enhance development and deployment of demand side response and energy storage, all linked to the main requirements for development of flexibility assets. These are:

- Well-functioning, liquid markets providing ample risk management opportunities;
- Price volatility (without price volatility, there will be no incentive for any form of flexibility from DSR or storage);
- Accurate data (without accurate data, both supply and demand for flexibility services cannot be communicated nor verified. This includes transparent price data.);
- Grid access (without access, it is impossible to connect capacity to supply the service to the market- or grid-based need for flexibility).

For these main requirements to function effectively, distorting regulatory barriers should be resolved as well (e.g. resolution of existing discussions on demand response vs energy efficiency).

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

Generally, capacity mechanisms require assurances years ahead of time. This requirement is difficult for industries to meet when they wish to provide demand side response. Investments in flexibility should be made because they have value in and of themselves, not to supplement renewables.

Do you have additional comments?

4000 character(s) maximum

Generally, capacity mechanisms require assurances years ahead of time. This requirement is difficult for industries to meet when they wish to provide demand side response. Investments in flexibility should be made because they have value in and of themselves, not to supplement renewables.

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

Larger bidding zones increase competition and lower the price of electricity. This benefit must be weighed against the higher cost of congestion managements and/or grid investments to achieve such bidding zones. It is therefore not possible to, as a blanket statement, say that granular locational pricing would benefit the market.

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 onsite generation from their metered consumption?

- Yes
 No

Do you have additional comments?

2000 character(s) maximum

It is important to note that other consumers besides small-scale customers exist, such as energy intensive industries, which also experience (regulatory) issues with unlocking their demand side response. Removal of all barriers to supplying DSR is both desirable and necessary to achieve the lowest total electricity system costs. There is a plethora of tools available to enhance development and deployment of demand side response and energy storage, all linked to the three main requirements for development of flexibility assets.

These are:

- Price volatility (without price volatility, there will be no incentive for any form of flexibility from DSR or storage)
- Accurate data (without accurate data, both supply and demand for flexibility services cannot be communicated nor verified)
- Grid access (without access, it is impossible to connect capacity to supply the service to the market- or grid-based need for flexibility).

The mentioned qualifications for allowing this are explicitly welcome to remove distorting national policies which shift energy costs onto other consumers. Furthermore, this provision would treat the electricity grid as a copper plate, building further upon existing EU legislation and policies.

If such a right were introduced:

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

- Yes
- No

Do you have additional comments?

2000 character(s) maximum

This depends on the extent to which grid congestions are taken into account. In countries which suffer from significant grid congestions due to renewables deployment, if grid congestions are a factor for not applying this right, renewable generation facility locations would barely change. It may affect the locations of e.g. solar panels, which may be more cheaply placed on fields instead of on roofs.

(b) Should it be restricted to local areas?

- Yes
- No

If yes, why?

2000 character(s) maximum

This may be a good idea, due to grid congestions. It is however difficult to make such a blanket statement.

Do you have additional comments?

2000 character(s) maximum

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

- Yes
- No

Do you have additional comments?

2000 character(s) maximum

It should not, as it would not take into account the costs of accessing scarce interconnector capacity.

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

Consumers already have this right in many member states. If consumers want additional meters to contract different kinds of services, there is no prima facie reason this should be restricted.

Offers and contracts

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

- Yes
- No

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

at most 1 choice(s)

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

If 'other', please specify

250 character(s) maximum

No opinion.

Do you have additional comments?

2000 character(s) maximum

If consumers are shielded from market forces through fixed prices, the incentive following from market prices will not affect these consumers.
This would require strict rules preventing households from leaving these contracts prematurely if or when variable prices fall.

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 checked="" type="radio"/>

Do you have additional comments?

2000 character(s) maximum

Cost-reflective fees are required to protect suppliers. IFIEC sees no current need to clarify these provisions. We see no need for EU regulation requiring NRAs to approve these termination fees.

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

- Yes
- No

Prudential supplier obligations

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

- Yes
- No

Do you have additional comments?

2000 character(s) maximum

To answer this question, it must be unambiguously clear what this obligation would entail exactly. It is desirable that suppliers, when they sell a product, can guarantee the delivery of these products. Consumers should be protected against non-delivery and breach of contract by suppliers. Many industrial energy consumers purchase energy through a supplier, and should be protected against suppliers ignoring customer demands for purchase of energy products. Simultaneously, suppliers can best choose their own hedging strategies. Furthermore, industrial end-users will themselves carry out extensive analyses of their suppliers to assess (financial) stability.

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

- Yes
- No

If not, why not?

2000 character(s) maximum

No, as all end-users should be able to rely on contracts sold to them by suppliers.

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

Do you have additional comments?

2000 character(s) maximum

Following the principle of subsidiarity, there is no clear reason why these should not be addressed at a national level.

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?	<input type="radio"/>	<input type="radio"/>
Can this be mitigated?	<input type="radio"/>	<input type="radio"/>

(c)

	Yes	No
Would such contracts reduce incentives to reduce consumption at peak times?	<input type="radio"/>	<input type="radio"/>
Can this be mitigated?	<input type="radio"/>	<input type="radio"/>

Do you have additional comments?

2000 character(s) maximum

Electricity prices below cost are not sustainable; the compensation must flow from somewhere. Without answering where this compensation must come from, this claim cannot be supported

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

Allowance should be made for local differentiation on the information requirements. The minimum significant load-drop sizes will be different for different member states and the connected market size. For example, a sudden removal of 25GW of demand from the market will have a different impact in the bidding zone of France as opposed to in Ireland.

Increasing the transparency of market surveillance actions by improved communication of the market-related data by ACER, regulators and market operators.

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

ACER should be empowered to investigate and prosecute significant market manipulation violations within member states.

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

IFIEC encourages the publication of country- and region-specific data and statistics.

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