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Joint ACER-CEER response to European Commission's Consultation on a new Energy Market Design

07 October 2015

The present document contains the joint feedback of the Agency for the Cooperation of Energy Regulators (the "Agency") and the Council of European Energy Regulators (CEER) to the European Commission's Public Consultation on a new Energy Market Design.

European energy Regulators are committed to ensuring that the full benefits of market integration flow to consumers. We have consistently worked to enhance the competitiveness of national, regional and European energy markets and to ensure they are attractive to investors. We consider that this consultation comes at an important time and provides an opportunity: to focus on the implementation of beneficial proposals which have been developed, but are not yet in place; to address some of the increasingly apparent tensions between domestic and European energy policies; and to look ahead and better define the market we wish to see in the future and the outcomes we want that market to deliver for consumers.

In November 2013, we launched the "Energy Regulation: a Bridge to 2025" initiative¹, aiming at identifying the main challenges facing the energy sector over the next ten years, and the appropriate regulatory response. The initiative's Conclusion Paper of September 2014² presented a number of proposals. The feedback provided in this document is partly based on those proposals.

The contributions presented in this document should be read in the context of the current ongoing implementation of the Third Energy Package, including Guidelines and Network Codes, as well as of Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency (REMIT).

¹ Throughout this process, the Council of European Energy Regulators (CEER) has collaborated closely with the Agency.

² "Energy Regulation: A Bridge to 2025" Conclusions Paper, attached to the Recommendation of the Agency for the Cooperation of Energy Regulators No 05/2014 of 19 September 2014 on the regulatory response to the future challenges emerging from developments in the internal energy market.



This implementation should be continued and prioritised and any improvement in the energy market design should be built on the existing provisions and important results achieved in their implementation (e.g. the day-ahead market coupling currently covering the large majority of Member States). In particular, we recommend that the debate on any new energy market design is structured and conducted in such a way that it does not put into question, or provide any reason to delay the current implementation effort, so that tangible benefits can be delivered to European energy consumers as soon as possible.

A number of suggestions put forward in this document require legislative changes. Therefore, these suggestions are presented to the European Commission so that they can be considered for inclusion in its legislative proposals.

Our response provided in this document is structured in two parts. The first part outlines our vision on many aspects related to the future of the electricity sector in Europe. In the second part, this vision is applied to answering the specific questions posed by the European Commission in its Electricity Market Design Consultation document.

Part 1 – Our Vision: the challenge ahead

Markets are dynamic by nature and change is natural. However, the changes being seen in the European market at present are highly significant and demand coordinated thinking to create an efficient and sustainable market design that delivers tangible benefits to European consumers. As the system decarbonises, the traditional model of generation, network and market operation will have to be further developed. We are seeing, on average, lower and more volatile power prices. Some thermal plant will close and running hours for others will be reduced. We will continue to see many more generators connecting at distribution voltage levels. This will require distribution networks to become more actively managed and there will be a need to (re)define the relationship between TSOs and DSOs. Cross-border power flows driven by price signals and increased interconnection between countries will become ever more important and the coordination of those flows will be vital to manage the system and use resources efficiently. Perhaps most importantly, we will continue to see the emergence of an active demand side of the market and the ability for consumers to take part in markets.



The changes in market conditions are going to continue to raise questions about how to promote the investment which Europe needs – whether in transmission, distribution or generation capacity, smart grids or innovation – while maintaining security of supply and continuing to decarbonise. If we want investments to take place in response to forward prices, it is imperative that everything is done to make sure that price signals reflect scarcity and to create shorter-term markets which will reward those who provide the flexibility services which the system increasingly needs. Crucial to this is thinking system-wide, including being clear in a commitment to the EU ETS being the primary driver for decarbonisation, recognising the impacts that intervention can have on the functioning of markets in general and on neighbouring countries, and acting to ensure that any measures are clearly justified, coordinated and designed in a way which minimises (and ideally avoids) market distortions.

As regulators, we recognise that maximising the benefits and negotiating the challenges which these changes deliver requires market rules, regulation and regulators to adapt too. We recognise that there will be greater need for coordinated decisions and in general a more robust decision-making process on EU-wide market design issues; we are going to see the emergence of more entities playing critical (sometimes monopoly) roles in cross-border energy exchanges and we need to ensure they are appropriately scrutinised; and we need to make sure that market rules are not unwittingly biased towards the status quo and constrain the ability for new business models to evolve.

We also think that the changes in the market – and the proven ability of markets to respond to changes – suggest that caution from policy makers may be valuable. In general, we advocate an “if it ain’t broke, don’t fix it” approach which leads to carefully targeted action to solve specific problems. We also think that it is important to ask ourselves what we want the European electricity market to deliver to consumers and to make sure our policy focus is on making sure all the actions we take are designed to give consumers these opportunities.

We think the proposals below can both enhance the functioning of the electricity markets across the Union in the short term and lay the foundations for a truly Europe wide market in the near future.



Enhancing the functioning of wholesale electricity markets

In recent years, we have invested hugely in developing a set of rules, in the form of network codes, to enhance the Internal Energy Market (IEM). Putting these rules in place across Europe will make it easier for power to flow in response to price signals which reflect its value to consumers. Creating these signals is key to driving short-term efficiency and promoting longer-term investment and should, in our view, be a key focus for the Commission. The following steps will help create these signals:

- *Focusing on the creation of short-term markets* – Day-Ahead market coupling has been a remarkable success and needs to be extended to those parts of Europe which are not yet coupled. However, intraday and balancing markets will be increasingly important to valuing flexibility and there needs to be a push to deliver the cross-border intraday (XBID) project and to implement the Network Code on Electricity Balancing as soon as possible.
- *Markets that reward flexibility (not flexibility markets)* – We do not see a case for creating separate flexibility markets. In our view, fully implementing the Guideline on Capacity Allocation and Congestion Management (CACM Guidelines) and the Network Code on Electricity Balancing is necessary to reward flexibility within the market. Integrating/internalising scarcity constraints in the energy price (through a better pricing of reserves) in the different short-term energy markets needs to be further investigated, as it could further enhance the functioning of the target model and could address Member States' security of supply concerns in a more efficient and IEM-compatible way than capacity remuneration mechanisms.
- *Bringing Renewable Energy Sources (RES) into the market* – We also think that all RES generators should be exposed to short-term market price signals. We therefore consider that balance responsibility should be viewed as the norm for all market players (with appropriate routes available to the smallest participants to delegate it). On the network side, TSOs and DSOs, working in tandem, should enhance coordination in grid planning and development, and in their use of system flexibility so that RES curtailment and the need for network expansion are minimised.



- *Phasing out retail price regulation* – We wish to see free markets setting prices and fostering competition, at both wholesale and retail levels, flourishing throughout Europe. European consumers should have the choice of an electricity supply contract that appropriately reflects their use of energy and wholesale market prices should reflect market fundamentals, and should not be distorted by market abusive behaviour. They should be able to rise to reflect the value of scarcity.
- *Creating bidding zones that promote efficient investment* – We consider that the development of appropriately configured bidding zones, which reflect the true scarcity of the transmission network and ensures that cross-zonal flows are not unduly discriminated against internal flows, will deliver benefits to consumers in the short term and, in the long term, provide signals for efficient development of infrastructure where it is needed.

Evolving away from national interventions

Europe is currently characterised by a patchwork of bespoke national support mechanisms, both to ensure generation adequacy and to promote particular generation technologies. In many cases, these mechanisms were implemented without full consideration of their impact on the efficiency of the IEM or on neighbouring markets. We would like to see a move to carefully justified, regional market-based mechanisms.

- *Ensuring system adequacy is assessed Continent-wide* – We think that the current nationally focused approach to assessing generation adequacy is inefficient. We see large benefits from a Europe-wide assessment of system adequacy and a common methodology developed and implemented, with a strong focus on the contribution of interconnections.
- *Regional capacity mechanisms* - While the methodology for assessing adequacy should be pan-European, it seems likely to us that, where the case for their introduction has been robustly proven, mechanisms to procure capacity (or other needed services) will have to be regional. It also seems likely that those regions will be defined by congestions in the grid as opposed to national borders. Therefore, we do not necessarily see the need for a single EU-wide capacity mechanisms or a need for the same design to be applied in every region, or, possibly, even in every location within each region, as long as explicit cross-border participation is allowed and



the differences in design do not adversely affect the functioning of the IEM. However, in all cases, the rationale for implementing new mechanisms should be carefully scrutinised and agreement at regional-level required.

- *Competitive and market-compatible support mechanisms for low carbon generation* – Our objective must be to minimise the total cost of a low carbon electricity system and we understand the desire to phase out support mechanisms. That said, we consider it important to recognise that support for RES generation can be phased out more quickly with an effective EU ETS. As such, we see a commitment to creating a robust carbon price as a priority. Where subsidy mechanisms do exist, we need to ensure that they do not shield parties from short-term market signals and lead to inefficient operating decisions. We also think it is crucial that the allocation of support is competitive (using, for example, an auction).

Enabling greater participation

Effective markets need multiple buyers and sellers and we need to focus on bringing new players and new business models into the market. Our proposals to ensure RES generators respond to market signals should foster participation, but this can be further enhanced by:

- *Enabling the demand side* - Kick-starting demand response requires that all consumers (from large industrial to households) are able, either directly or through a mandated entity (supplier, aggregator, ESCO, etc.) to take advantage of the different price signals on the energy markets to adapt their consumption pattern accordingly. In addition, a clear framework should be defined for DSOs to value the network impact of demand side (both positive and negative) and use flexibility to cut network costs in a manner that does not distort wholesale and retail markets, but that adds to the investor-certainty of demand-side response schemes.
- *A proportionate approach* - We note that there is a wide variation in the configuration, technologies and environments within which DSOs operate across the European Union, so a “one size fits all” approach does not seem appropriate to define their “neutral market facilitator” role, in particular for innovation. We do, however, see benefits in promoting convergence of tariffs and regulatory approaches as it encourages particularly providers of new technology to



consider the EU as a seamless energy market and thus a more attractive location to invest in new technologies.

- *Facilitating competition and innovation in retail markets* - Barriers to market entry and growth for new actors (suppliers and third parties), as well as barriers to innovation need to be as low as possible. This means lowering the time and cost for these actors to access well-functioning wholesale markets and licencing/balancing regimes, strengthening the separation of the DSO function from other activities, removing regulated energy prices, promoting common standards for consumer data and for DSO-supplier contract and promoting the deployment of time-of-use metering.

Embedding robust governance

An effective European market needs robust and transparent governance, where responsibilities are matched with appropriate powers.

- *Making the regulatory decision process more robust* - There is a long history of cooperation among National Regulatory Authorities (NRAs) in Europe, which has delivered remarkable results. However, it is now appropriate to move towards an even stronger cooperation and a more robust regulatory framework for the IEM. In particular, we see the benefit of the Agency taking directly decisions on binding subsidiary instruments, as those for example foreseen in the CACM Guideline, rather than only in those cases where NRAs fail to agree.
- *RSCs* – Seamless cross border system operation needs to underpin the market and we see Regional Security Coordinators (RSCs) as a key part of the future power market. TSOs have committed to acting as if they were a single TSO and need to be held to that commitment. We would like to see: a clear roadmap for the geographic scope of RSCs to be extended; the role of RSCs enhanced to maximize added value for secure network operation and cost savings; and clearer roles enshrined in Network Codes and Guidelines and law.
- *Governance of Nominated Energy Market Operators (NEMOs) and other pan-European entities*
With the increasing reliance on pan-European trading platforms to implement the IEM – Price Coupling Algorithm (EUPhemia) for Day Ahead, XBID for Intra-Day, the Single Allocation

Platform for transmission rights, as well as coordinated capacity calculators, and the capacity booking platforms for gas – market outcomes across the EU will be driven by monopoly or near monopoly functions, where the costs of each entity not performing their functions effectively are high. We, therefore, see a case for these entities to be regulated, to ensure both cost effectiveness, quality of service and timely delivery of the trading infrastructure to all countries participating in the IEM. We would particularly like to see clearer rules and greater transparency around the market coupling algorithm (EUPhemia) and a single voice for Europe's NEMOs.

- *ENTSOs* – We wish to see an evolution in the role of the ENTSOs such that it is clear they are acting in the interests of the Union as a whole. There should be clarity on how decisions are taken, stronger financial independence from TSOs and they should be subject to oversight by the European Commission and ACER. Enhanced cooperation between ENTSOs and DSOs and enhanced coordination within DSOs should also be seen as a priority.

Envisaging future challenges

While we need to focus on enhancing markets now, we consider that a clearer framework for assessing the case for future policy change would be useful:

- *Methods and indicators to assess effectiveness* – We recommend agreeing on methods, as well as a set of indicators, that can be used to assess the effectiveness of markets³. We need a touchstone which can guide the need for any future intervention and a way of assessing whether the IEM is delivering the outcomes which consumers value. Regulators are willing and able to deliver this, as we have done with our Market Monitoring Report, our Gas Target Model and in our position paper on well-functioning retail markets.
- *Facilitating broader participation* – We see potential for Europe's market rules to promote competition within and beyond Europe. In addition to the EEA countries, we recommend ensuring Switzerland is an active participant, that our colleagues in the Energy Community countries become more closely involved, and that we consider extensions of the market and its rules beyond Europe's southern borders.

³ Recognising the ACER Market Monitoring Report provides an ideal starting point for such work

Part 2 – Answers to the specific consultation questions

Q1) Would prices which reflect actual scarcity (in terms of time and location) be an important ingredient to the future market design? Would this also include the need for prices to reflect scarcity of available transmission capacity?

- 1.1 Prices reflecting scarcity (both in terms of time and location) of generation resources in each bidding zone of organised markets in the different timeframes (day-ahead, intraday and balancing) should become a key ingredient of the future market design.
- 1.2 The full implementation of the electricity target model, as described both in the Guideline on Capacity Allocation and Congestion Management (CACM Guideline) and in the draft Network Code on Electricity Balancing (as recommended by the Agency), together with the removal of artificial caps to the formation of prices and the integration of renewables into the market, will represent a decisive step in that direction.
- 1.3 Efficient short-term markets (day-ahead, intraday and balancing) require a clear separation between the different mechanisms organised on the basis of their time-frame and should avoid market segmentation within the same timeframe (e.g., during the intraday time frame, three mechanisms are currently active: intraday, re-dispatching and replacement reserve procurement). Harmonisation and coordination of current designs is the key to efficiency.
- 1.4 Possible improvements to be considered include:
 - a) separation of intraday and balancing markets with clear differentiation of the periods when market participants can balance themselves and when TSOs take over the balancing responsibility. This requires the harmonisation of all short-term gate closure times (internal and cross-border intraday gate-closure time, balancing energy gate-closure time) as close as possible to real time, including the harmonisation of the relevant congestion management procedures;
 - b) harmonisation of short-term (intraday and balancing) market time units; this should be specifically for national and cross-border schedules, intraday products and balancing products;



c) efficient intraday pricing of energy and transmission capacity. One possible option for transmission capacity pricing could be the introduction of intraday auctions alongside continuous intraday trading;

1.5 Efficient short-term markets also require that the bidding zone configuration is able to reflect the true scarcity of the transmission network and to ensure that cross-zonal flows are not unduly discriminated against internal flows. In that respect, we believe that utmost attention should be paid to the bidding zone review and the regional capacity calculation methods required by the CACM Guideline.

1.6 The identification of scarcity conditions and the implementation of specific mechanisms for integrating/internalising scarcity constraints in the energy price (through a better pricing of reserves) in the different short-term energy markets needs to be further investigated as it could further enhance the functioning of the target model and could address Member States' security of supply concerns in an alternative and/or complementary way to capacity remuneration mechanisms (CRMs).

Q2) Which challenges and opportunities could arise from prices which reflect actual scarcity? How can the challenges be addressed? Could these prices make capacity mechanisms redundant?

2.1 The general level of energy prices and their volatility is likely to increase if scarcity is better reflected in energy prices. On the one hand, greater price volatility, particularly imbalance pricing, could increase the risk for market participants in being out of balance and could particularly impact those investing in new generation capacity and those supplying customers.

2.2 However, on the other hand, more volatile prices could also foster the development of demand-side response (DSR) and more flexible supply contracts, as they offer greater compensation for that flexibility. This can create opportunities for participants to hedge the risk of volatile pricing, either through developing new sources of flexibility, e.g. DSR, using a liquid market to balance their risk or varying their output/consumption in response to price



signals. In all this, we need to ensure that there are adequate mechanisms in place to hedge scarcity pricing for those who are unable to respond to those prices (e.g. vulnerable consumers).

- 2.3 In order for the market to respond appropriately to prices which reflect scarcity, it is important that market participants have confidence that prices will be allowed to rise to reflect scarcity. In particular, governments and regulators should abstain from intervening when high prices occur and to minimise other intervention mechanisms such as CRMs, support schemes or retail price regulation. Regulators and policy makers should also establish monitoring to enable them to differentiate price scarcity from exercise of market power or market abuse, thus ensuring confidence in the functioning of the market.
- 2.4 In this respect, the effective implementation of REMIT and its monitoring framework from October 2015 should promote integrity and transparency in wholesale energy markets, deterring market abuse behaviour which may prevent prices from reflecting market fundamentals.

Q3) Progress in aligning the fragmented balancing markets remains slow; should the EU try to accelerate the process, if need be through legal measures?

- 3.1 The Agency recommends that the draft Network Code on Electricity Balancing is adopted as rapidly as possible. This is the essential first step for the integration of Europe's balancing markets. Prompt implementation of the Network Code's requirements is more important than the possible establishment of further obligations, which could impose delays in the adoption of the Network Code.
- 3.2 The development of the draft Network Code on Electricity Balancing and the Balancing Pilot Projects have revealed many obstacles that must be overcome in order to achieve an integrated balancing market. However, the most important of these obstacles will be tackled through the implementation of the Network Code. For example, the Network Code shall ensure:
- a) ambitious legal deadlines for the integration of balancing markets;



- b) a clear time separation between intraday trading and TSO balancing; and
- c) a standardisation of balancing products across Europe.

3.3 Not all the existing features differentiating national balancing markets have been fully assessed yet to understand which of these are true obstacles to the integration of balancing markets (and therefore must be harmonised) and which have little impact on the efficiency of these markets. The implementation of the Pilot Projects and regional integration through Coordinated Balancing Areas will provide clarity and essential input for the final pan-European model for electricity balancing.

Q4) What can be done to provide for the smooth implementation of the agreed EU wide intraday platform?

4.1 The cross-border intraday (XBID) project has a long history and has not progressed, until now, as smoothly and rapidly as anyone would have liked, especially considering the increasing importance of intraday trading in the face of the greater future penetration of RES-based generation. The problems encountered by the XBID project are partially due to the complexity of the issues involved, but also to the conflicting commercial interests of the parties involved and the lack of a robust governance structure which could have dealt with these conflicting interests (and which, for example, could have helped in the selection of a single platform provider). While these lessons need to be learned, the focus must now be on making sure that the XBID project is delivered efficiently across Europe and, once that has been achieved, that the rules for amending the algorithm and governing the operation of the intraday platform are robust.

4.2 We also need to recognise that recently more progress has been made. The signing of the contract for the XBID project and the support provided by regulators should provide a very firm footing from which to move forward. The European Commission played a central role in driving the agreement between the XBID parties, which facilitated the signature of the contract with the platform vendor, and we consider that the European Commission's ongoing engagement and, where necessary, pressure will be needed to keep the project on track.



- 4.3 In our view, the following is required to make the XBID project a success:
- a) resist the temptation to move to “plan Bs” and focus on the delivery of the selected EU-wide solution;
 - b) publish a clear plan for Local Implementation Projects based on market needs, having worked with stakeholders, and without hampering overall progress due to local (product) requirements;
 - c) facilitate broader participation by non-NWE+ parties without jeopardising timelines; and
 - d) clarify and streamline the voting rules among power exchanges to ensure timely decision-making. This should also include formalising an escalation route (as happened successfully with the ‘lock in’ process).
- 4.4 Regulators will continue to scrutinise the costs incurred to ensure they are efficient and facilitate the recovery of such efficient costs.

Q5) Are long-term contracts between generators and consumers required to provide investment certainty for new generation capacity? What barriers, if any, prevent such long-term hedging products from emerging? Is there any role for the public sector in enabling markets for long term contracts?

- 5.1 Long-term energy contracts may be a useful tool, along with other instruments, to determine where to invest or secure future revenues for generators when investing in new generation capacity which is considered risky. Indeed, long-term energy contracts provide information about the need for investment and/or a useful hedge for new generation output.
- 5.2 However, such contracts alone will likely not trigger investment decisions because their prices usually reflect expectations regarding future short-term market prices and because of their own inherent limits, e.g. durations limited to a few years for standard products and complexity for tailor-made contracts.
- 5.3 Thus, efficient, liquid and competitive short-term markets, providing the right signals (including on scarcity), will have a more important impact on investment decisions and on the well-functioning of forward markets. Therefore, the importance of the proper development of



short-term markets (including the implementation of the recently adopted CACM Guideline and of the other forthcoming networks codes, such as on Electricity Balancing and on Forward Capacity Allocation) will support the evolution of more long-term energy contracts – also across bidding-zones.

- 5.4 While there is no need for further specific regulation regarding long-term energy contracts, market participants willing to negotiate such contracts may need clearer competition rules which aim at ensuring no detrimental impact on competition or on third party access to cross-zonal capacity.
- 5.5 Moreover, when it comes to hedging across different bidding zones, the availability of tradable long-term transmission rights or other long-term hedging products enabling cross-border trade (as provided for in the forthcoming Network Code on Forward Capacity Allocation) becomes essential. In addition, policy makers should ensure that any new regulation, such as, for example, the one resulting from current negotiations about the implementation of the MiFID II on level 2 for the energy sector, is carefully designed so as not to have an undue – and probably unintended - detrimental effect on energy markets.

Q6) To what extent do you think that the divergence of taxes and charges levied on electricity in different Members States creates distortions in terms of directing investments efficiently or hamper the free flow of energy?

- 6.1 Taxes and charges levied on electricity in Member States can have an impact on cross-border trade (in a manner similar to different RES support schemes or CRMs). This impact has been highlighted in previous Market Monitoring Reports (MMRs) issued annually by the Agency and CEER and will be commented on further in this year's MMR, expected to be published in November. In our view, gradual harmonisation may be beneficial, though the scale of distortion and the costs and feasibility of addressing it are not fully understood at present.



Q7) What needs to be done to allow investment in renewables to be increasingly driven by market signals?

- 7.1 First of all, it should be emphasized that a predictable regulatory framework is - alongside market signals - a prerequisite for ensuring low-cost financing for investment in RES-based generation, as it keeps risks to a minimum. In this respect, policies aimed at achieving RES development based solely on market signals should be carefully considered, taking into account the competitiveness of RES technologies and deployment objectives, both at the European and national levels.
- 7.2 Having liquid short-term electricity markets is a necessary condition for the support to investment in RES-based generation to be increasingly driven by market signals.
- 7.3 In the short term, support schemes based on market *premia*, where incentives are granted as a premium in addition to the market price received by generators, could represent the least distortive approach for supporting RES investments and contribute to making RES-based generation more responsive to market signals.
- 7.4 In the medium/longer-term, an improved EU Emission Trading System (ETS) should become the main driver for investment in RES-based generation. It should, however, be pointed out that this would lead to a technology neutral remuneration mechanism for all RES technologies, which may call for a reformulation of national RES objectives, since they are in many cases differentiated by technology.

Q8) Which obstacles, if any, would you see to fully integrating renewable energy generators into the market, including into the balancing and intraday markets, as well as regarding dispatch based on the merit order?

- 8.1 The electricity market design should encourage the integration of RES-based generation into the market. This will be achieved when RES-based generation bears the same risks and has access to the same markets as conventional generation. As such, the market arrangements should be non-discriminatory, reflect marginal costs where appropriate, and should not



incentivise market-distorting behaviour. The well-functioning of short-term markets is particularly important for the integration of wind and photovoltaic generation into the market, given their intermittent generation characteristics.

8.2 In this respect, full market integration of RES-based generation is currently limited by three types of obstacles.

- a) The lack of a level playing field: some RES-based generation does not bear the same responsibilities as other market participants. In particular, balancing responsibility should apply to all generators above a certain size in order to incentivise all market participants to undertake thorough scheduling and forecasting. Independently from the existence of support schemes, all RES-based electricity should be included in a balancing perimeter.
- b) The lack of trading opportunities: RES-based generation forecasts are only reliable very close to real-time. It is, therefore, crucial that RES-based generators can access well-functioning short-term markets in which to sell their electricity output and to balance their positions or support system balancing.
- c) The lack of market price sensitivity: Financial support should not incentivise RES-based generators to produce electricity irrespective of market prices, in particular at times of negative electricity prices on wholesale markets. This is also linked to the right of RES for priority dispatch, which needs to be reconsidered in the light of the operational problems in the system and its overall efficiency.

8.3 Ways to remove obstacles to the full integration of RES-based generation include:

- ensure that balance responsibility is applied to RES-based generation;
- ensure that short-term markets are efficient and accessible by all types of market participants, and that short-term market gate closures (intraday hub, cross-border intraday, balancing energy bids) are harmonised as close as possible to real time, and all intraday trade (internal and cross-zonal) is harmonised to 15 minutes products;
- limit / monitor the extent to which financial support promotes market-distorting behaviour. For example, a 'market premium' support scheme may ensure that RES-based generators are exposed to short-term price signals.



- 8.4 However, the rationale for supporting RES should be kept in mind, namely achieving a 27% share of RES in our final energy consumption by 2030. Hence, realising a full market integration of RES is at least a mid-term objective for which we can already today lay the ground through progressively exposing RES-based generation to market signals.
- 8.5 The latest State Aid Guidelines issued by the European Commission already address the obstacles listed under the points a) and c) of paragraph 8.3 above, requiring amendments to national RES support schemes in the short run.

Q9) Should there be a more coordinated approach across Member States for renewables support schemes? What are the main barriers to regional support schemes and how could these barriers be removed (e.g. through legislation)?

- 9.1 In addressing the optimal geographical scope of RES support schemes, two aspects need to be considered at the outset:
- a) on the one hand, that a more coordinated approach across Member States for RES support schemes should lead to a more cost-efficient deployment of RES generation throughout Europe, ensuring a better exploitation of the existing natural endowment of each Member State; but
 - b) on the other hand, that RES penetration brings a number of benefits, some of which are global in nature (e.g. the reduction in greenhouse gas emissions), whereas others have a more localised impact (e.g. the reduction in pollutant emissions or the positive effect on the development of RES technologies and the associated employment opportunities).
- 9.2 Therefore, the definition of the optimal geographical scope of any RES support scheme should take into account these two aspects, advocating different dimensions (EU-wide or national), as well as the impact that such schemes might have on the functioning of the IEM.
- 9.3 While in the medium/long-term an improved ETS should become the main driver for investment in RES (as already highlighted in our response to Question 7), it is likely that a regional approach to any additional RES support might represent an optimal solution to the trade-off outlined above.



- 9.4 A different issue is whether there should be a coordinated approach across the EU, i.e. a set of principles that all regional schemes in the EU should comply with. For example, it may be established that RES support schemes based on “price premia” are more likely to minimise distortions to the internal electricity market (see also the response to Question 7 above). A greater convergence between national support schemes is nonetheless already on the way through the common rules for support defined in the latest State Aid Guidelines, e.g. regarding the introduction of Feed-in-Premiums and the competitive allocation of support.
- 9.5 While regional RES support schemes are an efficient and sensible approach, there are important barriers to the implementation of support schemes at a regional level.
- (1) Different national RES deployment objectives/strategies make it difficult to find a common ground for agreeing on the level of support and the pace to follow.
 - (2) Differences in the natural endowment of RES between Member States within the same “region” should lead to a cost-efficient outcome, where one Member State co-finances RES development in another Member State. In this way, the “co-financing” Member State would meet its RES penetration targets through the deployment of RES in the “hosting” Member State.
 - (3) As support schemes are currently financed through national taxes or surcharges, citizens would need to be convinced of the merits of a cross-border support scheme (i.e. that it might be much cheaper to meet the RES penetration target in this way).
- 9.6 Given the benefit of regional RES support schemes, these barriers need to be addressed and new approaches to cross-border support schemes investigated. Regional schemes involving neighbouring countries appear easier to manage and more realistic in comparison with a common EU-wide support scheme.

Q10) Where do you see the main obstacles that should be tackled to kick-start demand-response (e.g. insufficient flexible prices, (regulatory) barriers for aggregators / customers, lack of access to smart home technologies, no obligation to offer the possibility for end customers to participate in the balancing market through a demand response scheme, etc.)?

10.1 There are numerous obstacles that could be identified as hampering the participation of DSR in the market.

- a) Price incentives. The energy market is currently going through the transition where there is an oversupply on the generation side and policy interventions driving the electricity prices to historically low and less volatile levels. Thus, for the time being, limited price incentives seem to be the main cause of low participation of DSR. In many European countries, regulated prices for household customers continue to apply, acting as a major entry barrier. As a general principle, regulated prices distort competition in the market and prevent a level playing field between competing suppliers.
- b) Cultural barriers. These include a lack of understanding of the value of flexibility, or a lack of willingness to provide or use flexibility due to, e.g. institutional biases, lack of confidence in the flexibility programmes, lack of trust in market actors (e.g. even with smart meters, consumers may not see the value – in terms of € saved). In this respect, identifying “business models” for the development of DSR might address some of these barriers.
- c) Regulatory barriers. These include a lack of clarity regarding the roles and responsibilities of parties in using and providing flexibility and gaps in the regulatory framework (e.g. for aggregators, where a definition of roles and responsibilities is either not existent or not clear). Data management can also be a barrier to entry in a regulatory context. We believe that efficient, safe and secure data exchange between stakeholders is vital to reducing entry and growth barriers and to ensuring retail market functioning.
- d) Structural barriers. These may include costs relating to investment, R&D and economies of scale which may make procuring or providing flexibility costly (this particularly applies to other sources of flexibility, such as battery storage, where costs are still too high to make it a competitive option) in relation to the economic benefits. Moreover, insufficient



unbundling may be a structural entry barrier for new suppliers. For example, the use of similar branding (brand bundling) can result in customers associating a DSO with its vertically-integrated incumbent, giving the supplier of the same group a competitive advantage in the market (vis-à-vis new entrants).

- e) Metering barriers. The expansion of DSR beyond large industrial consumers requires that end-user consumers have appropriate metering in place to record their consumption and timely and user-friendly access to their data to be able to respond to price signals.

10.2 Day-ahead, intraday and balancing market rules should effectively remove barriers that hamper the participation of consumers. Such market rules are expected to enable a fair participation of DSR in energy markets where economically sensible. In any case, the provision of DSR services should remain voluntary and should not benefit from non-competitive advantages. The purpose of any market rules developed for this purpose should not be to unconditionally increase DSR volumes, but to do so only if the price signals reveal that there is a market need and an added value in such participation. These rules should:

- a) remove any form of price caps or price regulation at the wholesale and retail levels in order to establish transparent price signals, both for consumers and generators. As a general principle, regulated prices distort competition in the market and prevent a level playing field between competing suppliers. They should be abolished as soon as practicable. Regulated prices set below cost levels represent an absolute barrier for actors entering the market and trying to acquire customers and they are therefore detrimental to the functioning of retail markets. But even when they are set above entry costs, they may discourage switching. Regulators fully support the European Commission's call to phase out regulated prices. In addition to adequate pricing revealing scarcity conditions, this would facilitate the emergence of proper price signals and incentives for the development of DSR;
- b) DSOs need to facilitate new arrangements by acting as neutral market facilitators with the interest of the IEM at the forefront. This requires a sufficient level of unbundling between suppliers and associated DSOs. With the increasing penetration of distributed (including RES-based) generation, DSOs will be called to manage their systems in a more active way, similarly to TSOs, including by taking responsibility for managing congestions using local resources connected at the distribution level (with DSR among them). Therefore, the cooperation between DSOs and TSOs should be enhanced. Moreover the same level of



separation of DSO functions from other activities, as envisaged for TSOs, should be considered. Exceptions could be maintained for very small DSOs, which are unlikely having to perform TSO-like functions. In this respect, we suggest significantly reducing the current *de minimis* threshold;

- c) provide for flexible short-term markets and enhance the opportunities for participation of all flexible responses, and in particular of DSR in these markets;
- d) enable efficient functioning of retail markets that facilitates new entry and companies to innovate and offer their clients new products and services. If there is value and a positive business case for these (DSR) products up the value chain, and consumers gain interest in such products, they will develop in the market.

10.3 Transparent, efficient and, where feasible, widely harmonised data management processes are essential. In addition, the need for new entrants to contract/interact with many DSOs in order to offer DSR services in a country can also be a barrier to entry. The existence of standardised data formats, contracts and data hubs could help address this. Furthermore, with the arrival of aggregators and other third parties in retail markets, new opportunities and challenges arise related to data access. Data protection and standardisation at national and European level are key to any well-functioning data management system. The availability of smart metering equipment and systems which allow time-of-use meter readings is a prerequisite for consumers to be able to opt into implicit DSR schemes. Smart meters may also enable explicit DSR services through a dedicated standard interface, either as mandatory equipment or as an option.

Q11) While electricity markets are coupled within the EU and linked to its neighbours, system operation is still carried out by national Transmission System Operators (TSOs). Regional Security Coordination Initiatives ("RSCIs") such as CORESO or TSC have a purely advisory role today. Should the RSCIs be gradually strengthened also including decision making responsibilities when necessary? Is the current national responsibility for system security an obstacle to cross-border cooperation? Would a regional responsibility for system security be better suited to the realities of the integrated market?



- 11.1 By 2030, renewable generation will deliver almost 50% of all electricity produced. Intermittent and distributed generation will significantly increase the strain on intraday and real-time system operation, thus increasing the need for more flexible and adaptive system operation. The decentralised concept of TSO coordination has not yet proven to be adequate to meet this challenge. Furthermore, system operation is the enabler of the electricity market and political borders in system operation, which do not reflect the topology of the system, do not contribute to full market integration. Proper regionalisation of some system operation functions will thus be necessary to maximise the efficiency and security of the integrated electricity market.
- 11.2 To this end, current initiatives should be strengthened and given the responsibility of overseeing the security of supply of wider geographical areas, constituting consistent regions in terms of market integration and system operation. This shall allow technical interdependency and neutrality towards further-reaching optimisation in terms of costs and increased level of security of supply.
- 11.3 The new energy market design could evaluate whether, how and which system operation functions would benefit from regional integration, implying the shift from national to regional responsibility. This applies to the functions already addressed in the forthcoming System Operation Guidelines (with operational security analyses as the most prominent example) and possible new functions. Those new functions may include close-to-real-time interaction with TSOs on balancing as well as “offline” aspects related to e.g. preparation of regional plans in emergency or generation shortages. Further, the scope of these RSCs could be extended to functions related to network planning and market. Description and delimitation of tasks and functions should be clearly defined, assigning distinct responsibilities to the new Regional Security Coordinators and TSOs.
- 11.4 A future-looking target model on system operation needs to be developed within the current review of market design, anchoring the Regional Security Coordinators in the Electricity Directive.



Q12) Fragmented national regulatory oversight seems to be inefficient for harmonised parts of the electricity system (e.g. market coupling). Would you see benefits in strengthening ACER's role?

12.1 While this consultation focuses on the electricity market design, the considerations and proposals outlined in answering this question also apply to the governance and regulatory framework of the gas sector.

12.2 The Agency's name underlines its fundamental purpose of coordinating the actions of National Regulatory Authorities (NRAs). In its first five years of operations, the record of achievements - acknowledged by the European Commission itself already in 2014⁴ - bears witness to Agency's effectiveness in this role and in harnessing NRAs' resources to contribute to the collective development of the internal energy market⁵. Virtually all the legal acts of the Agency requiring a favourable opinion by the Board of Regulators have been agreed unanimously by NRAs' representatives in the Board.

12.3 The full implementation of the internal electricity and gas markets legislation involves cross-border regulatory issues. Those issues need to be addressed on the basis of an effective, coordinated and consistent cross-border regulatory approach, which takes into account a Union-wide view of the electricity and gas markets.

12.4 There is a long history of cooperation among NRAs in Europe, which has delivered remarkable results. For example, such cooperation provided regulatory support to the coupling of electricity day-ahead markets, which started well before the entry into force of the recently-adopted CACM Guideline and which currently covers a large majority of Member States. However, it is now appropriate to move towards an even stronger cooperation and a more robust regulatory framework for the IEM.

⁴ "Since its establishment, ACER has become a credible and respected institution playing a prominent role in the EU regulatory arena", Commission Evaluation of 22.1.2014 of the activities of the Agency for the Cooperation of Energy Regulations (ACER) under article 34 of Regulation (EC) 713/2009, C(2014) 242 final.

⁵ Over 150 experts from NRAs are currently involved, alongside Agency's staff, in the Agency's Working Groups. Moreover, 25 national experts have been seconded by NRAs to the Agency since its establishment, some of them at no cost to the Agency.



12.5 The current legal framework provides that the consistency and coordination of the regulatory action is mostly ensured through the cooperation and coordination among all NRAs, including through the Agency. They play a key role in enforcing internal electricity and gas market legislation and we shall continue to look for ways to further improve the effectiveness and efficiency of the regulatory framework and of the decision-making process.

ACER's decision-making competence

12.6 The CACM Guideline, which entered into force on 14 August 2015, envisages a number of binding subsidiary instruments to be adopted at a later stage. According to the Guideline, the adoption of such instruments is entrusted to NRAs. In the case of binding subsidiary instruments having a EU-wide scope of application, this requires NRAs to decide unanimously on the adoption of identical legal acts in all national legal systems within a six-month period, after which the responsibility is transferred to the Agency.

12.7 A more robust and effective adoption process could be achieved by empowering the Agency to take such decisions directly, rather than only in those cases where NRAs fail to agree. The involvement of NRAs would still be safeguarded by their representation in the Board of Regulators and its powers to issue or withhold its favourable opinion which should be foreseen as a requirement in the approval process, thus ensuring that both the European interest and national specificities are appropriately taken into account. Such an approach – i.e. entrusting the Agency with decisions otherwise assigned to “all NRAs” - could also be considered for the approval of other EU-wide subsidiary instruments, of similar regulatory nature, including those required by other Guidelines, as already proposed in the “Bridge to 2025” Conclusions Paper⁶.

ACER's advisory competence

12.8 Under the current legal framework, the Agency is required:

- a) to provide opinions on the compliance of NRAs' decisions with the relevant legislation at the request of an NRA or of the Commission⁷;
- b) to provide opinions on the application of Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009 at the request of NRAs encountering difficulties with the application⁸;
- c) to make recommendations, in accordance with its work programme or at the request of the Commission, to assist NRAs and market players in sharing good practices⁹.

12.9 This advisory activity plays an important role in ensuring the consistent application of the provisions contained in the EU energy *acquis* and in fostering the sharing of good practices, thus promoting a well-functioning IEM. This role of the Agency could be usefully enhanced by extending its opportunity to issue such opinions and recommendations not only at the request of the Commission or of an NRA, but also on its own initiative¹⁰.

ACER's power to request information

12.10 In its "Bridge to 2025" Conclusions Paper, the Agency recommended that it be given adequate powers to fulfil effectively the important monitoring responsibilities assigned to it, including, in particular, in respect of information gathering¹¹. This recommendation is still valid and could be usefully extended to cover the information required to fulfil other tasks entrusted to the Agency.

⁷ Article 7(4) of Regulation (EC) No 713/2009.

⁸ Article 7(6) of Regulation (EC) No 713/2009.

⁹ Article 7(2) of Regulation (EC) No 713/2009.

¹⁰ While NRAs would in this way lose the quasi-exclusivity of their role of initiative for these opinions and recommendations, they would still be involved in the process through their representation in the Board of Regulators, whose favourable opinion would be required for the adoption of these acts.

¹¹ "Energy Regulation: A Bridge to 2025" Conclusions Paper, paragraph 104.

Q13) Would you see benefits in strengthening the role of the ENTSOs? How could this best be achieved? What regulatory oversight is needed?

13.1 While this consultation focuses on the electricity market design, the considerations and proposals outlined in answering this question also apply to the governance and regulatory framework of the gas sector.

13.2 The central purpose of the ENTSOs is to facilitate the cooperation of TSOs in promoting the completion and the well-functioning of the IEM and cross-border trade, as well as to ensure optimal management, coordinated operation and sound technical evolution of the electricity and gas transmission networks¹². This purpose requires a governance regime which ensures that the ENTSOs act in the interest of the Union, that they are in a position to take decisions effectively and timely, and that effective fallback solutions apply in case of the ENTSOs' failure to deliver.

13.3 There are effective checks and balances provided in the Third Package to ensure good governance within the Agency. However, although the current legal framework provides important governance rules for the ENTSOs, it does not establish sufficient general safeguards, notably against conflicts of interests, i.e. between the interest of the Union and individual TSOs' interests, against inefficient decision-making and against the failure to deliver. In fact, there is no clear requirement for the ENTSOs to act in the interest of the Union, prevailing over any individual TSOs' interests¹³, no clear definition of general decision-making rules and no generally applicable sanctions for the ENTSOs' failure to deliver.

13.4 The ENTSOs' ability to serve their purpose can be therefore further enhanced if, on the one hand, their role is strengthened to the effect that they act truly in the interest of the Union,

¹² Article 4 of Regulation (EC) No 714/2009, Article 4 of Regulation (EC) No 715/2009.

¹³ For instance, pursuant to Article 4(1) of ENTSO-E's current articles of association, "the Association shall, on a non-profit-making basis, pursue the co-operation of the European TSOs both on the pan-European and regional level. **It promotes the TSOs' interests** and has an active and important role in the European rule setting process in compliance with EU legislation. Its objective is to promote the reliable operation, optimal management and sound technical evolution of the European electricity transmission system in order to ensure security of supply and to meet the needs of the IEM" (emphasis added).



and, on the other hand, they are subject both to decision-making rules overcoming efficiently potential disagreements and to effective regulatory oversight. This enhanced governance and regulatory framework should therefore provide that the ENTSOs:

- a) operate clearly in the Union's interest - and are therefore distinct from bodies acting mainly in the interests of TSOs;
- b) benefit from stronger statutory and financial independence, including from their member TSOs, and from guarantees of direct funding;
- c) have powers to request necessary assistance from TSOs (e.g. to obtain any necessary information);
- d) are subject to clear general decision-making rules (e.g. by codifying the decision-making rules of the CACM Guideline as generally applicable for the ENTSOs¹⁴); and
- e) are subject to effective regulatory oversight by the Agency, which should be given the power to issue binding decisions, and to sanctions in case of non-compliance with these decisions or, more generally, with their tasks.

Q14) What should be the future role and governance rules for distribution system operators? How should access to metering data be adapted (data handling and ensuring data privacy etc.) in light of market and technological developments? Are additional provisions on management of and access by the relevant parties (end-customers, distribution system operators, transmission system operators, suppliers, third party service providers and regulators) to the metering data required?

14.1 We fully agree with the Commission's communication on Delivering a New Deal for Consumers where the role of the DSOs is described as "neutral market facilitators". CEER has set out, in its recent conclusions document, how it sees the future role of DSOs. This includes a preferred approach to future oversight of DSOs, setting out exactly what a neutral market facilitator entails and when a DSO should be involved in an activity and when it should not. Careful governance of DSOs by NRAs, with a focus on driving a convergent approach across Europe, is key to ensuring that networks continue to facilitate delivery of the European target model and new innovative solutions aimed at providing further benefits and empowerment to European energy consumers.

¹⁴ Article 9 Commission Regulation (EU) 2015/1222.

14.2 As European regulators, we envisage the consumer at the heart of their data ownership and control. The DSOs, or other data handlers in some Member States, must ensure the protection of consumer data, but also facilitate the provision of this data to other service providers, with consumer consent. CEER intends to work closely with alternative dispute bodies (ombudsmen), consumer protection and data protection authorities – as well representatives of consumers themselves, to ensure that the rich data available from the implementation of smart metering is put to best use for consumers, safeguarding the consumers' rights to privacy.

14.3 With the increasing penetration of distributed (including RES-based) generation, DSOs will be called to play a more active role in the overall management of the electricity system. Therefore, it may make sense that they become more involved in the shaping of the vision and the rules for the new electricity market design, something that DSOs themselves have been calling for. However, at present, DSOs in Europe are represented by several “associations”, not always speaking with one voice. Therefore, consideration should be given to whether DSOs should be encouraged, or mandated, to establish a single body through which they can more efficiently participate in this process. Such a single EU DSO body would also facilitate the communication and cooperation with ENTSO-E, whose effectiveness should be improved given the need of a closer relationship between TSOs and DSOs, as noted in our reply to Question 0.

Q15) Shall there be a European approach to distribution tariffs? If yes, what aspects should be covered; for example tariff structure and/or, tariff components (fixed, capacity vs. energy, timely or locational differentiation) and treatment of self-generation?

15.1 There is a wide variation in the configuration, technologies and environment within which DSOs operate across the EU, so a “one size fits all” approach does not seem appropriate for distribution tariffs. We do, however, see benefits in promoting convergence of tariff and regulatory approaches as it encourages particularly providers of new technology to consider the EU as a seamless energy market and thus a more attractive location to invest in new technologies. CEER intends to work on the future of distribution tariffs, fully taking into



account the complexity of the area and the competing objectives that need to be borne in mind when considering best practice in tariff design. In principle, we seek future tariff designs to meet the following objectives:

- a) encourage efficient use of network assets;
- b) minimise the cost of network expansion (and this can include through flexible solutions);
- c) seek a fair distribution of network costs among network users;
- d) enhance the security and resilience of existing networks;
- e) work as a coherent structure, consistent with other incentives.

15.2 Coherence between network regulation and tariff design is a key requirement and any duplication of incentives in both regimes should be avoided.

Q16) As power exchanges are an integral part of market coupling – should governance rules for power exchanges be considered?

16.1 The CACM Guideline lays down governance rules for the power exchanges acting as Nominated Electricity Market Operators (NEMOs), performing market coupling-related tasks. Most notably, it requires a formal designation of NEMOs by Member State authorities, defines voting requirements for certain proposals on which NEMOs have to agree, subjects those proposals to approval by NRAs and envisages fallback solutions where NEMOs fail to make those proposals¹⁵.

16.2 However, the governance regime of the CACM Guideline does not cover all cases and areas where NEMOs need to cooperate with each other, with TSOs and with NRAs, to agree and to take decisions to fulfil their tasks related to market coupling. For instance, it does not apply to the NEMOs' decisions necessary to implement the proposals approved by NRAs (such as decisions for procurement of common IT services). More generally, the CACM Guideline does also not establish a formal framework within which NEMOs operate under regulatory oversight.

¹⁵ Articles 6 and 9 Commission Regulation (EU) 2015/1222.

- 16.3 The governance of power exchanges is especially important as far as their cooperation and execution of tasks related to market coupling in the day-ahead and intraday timeframe is concerned. To be effective, this governance should ensure that NEMOs cooperate within a formal framework under regulatory oversight and that they take decisions, which need to be coordinated, according to transparent and generally applicable rules. Moreover, such a governance regime should not be voluntary, but binding. It should therefore be considered:
- a) to require NEMOs to establish a common body through which they cooperate with regard to the performance of their predefined tasks (similar to ENTSO-E);
 - b) to establish clear general rules for the NEMOs' coordinated decision making and their implementation (including fallback solutions for NEMOs' failure to deliver);
 - c) to lay down rules for the monitoring and effective regulatory oversight of the common NEMO body by the Agency, which should be given the power to issue binding decisions, and for the imposition of sanctions in case of non-compliance with these decisions or, more generally, with their tasks.

Q17) Is there a need for a harmonised methodology to assess power system adequacy?

17.1 Yes, in an integrated European energy market, security of supply (and other related issues) is no longer exclusively a national consideration. Hence, there is indeed a need for a harmonised methodology to assess power system adequacy.

17.2 European regulators fully support the ongoing work of ENTSO-E to develop an EU-wide harmonised methodology.

Q18) What would be the appropriate geographic scope of a harmonised adequacy methodology and assessment (e.g. EU-wide, regional or national)?

18.1 The methodology should be harmonised at the EU-wide level, while its implementation should be performed at regional level. There needs to be a coherent layer of governance at regional level such that the responsibilities are clearly defined. A strong coordination of responsible bodies (TSOs and/or NRAs and/or Member States, others) is in any case required.



Q19) Would an alignment of the currently different system adequacy standards across the EU be useful to build an efficient single market?

19.1 Existing system adequacy indicators across Europe should be harmonised. This harmonisation should not necessarily aim at selecting one single indicator for system adequacy, such as LOLE (Loss of Load Expectation) or ENS (Energy not served). Instead, a set of indicators should be identified which would be able to describe the system adequacy problems comprehensively. However, while a harmonisation of indicators is expedient, a complete alignment of the target levels of adequacy may not be necessary.

19.2 In any case, Member States should transparently report on the indicators they apply and the targeted levels they aim for.

19.3 In addition to the indicators, it is important to note that larger discrepancies between adequacy standards across Member States require a higher degree of coordination between TSOs and solid and 'deeper' commitment agreements between TSOs.

Q20) Would there be a benefit in a common European framework for cross-border participation in capacity mechanisms? If yes, what should be the elements of such a framework? Would there be benefit in providing reference models for capacity mechanisms? If so, what should they look like?

20.1 A common European framework for cross-border participation is definitely needed in order to ensure that national CRMs comply with the principles of efficiency, transparency and non-discrimination.

20.2 To be beneficial, such a common European framework should ensure, at least, that:

- a) TSOs are incentivised to make a sufficient and appropriate amount of cross-border capacities available for cross-border trade throughout the year(s);



- b) TSOs are not allowed to adjust, limit or reserve these cross-border transmission capacities at any point in time, including in case of shortage emergency situation; and
- c) TSOs agree *ex ante* on the treatment of local/foreign adequacy providers in case of widespread shortage emergency situation (i.e. a situation in which a shortage emergency situation affects at least two countries simultaneously).

20.3 The fulfilment of these conditions is an absolute prerequisite to achieve a truly integrated market and goes beyond any possible reference models for capacity mechanisms. It essentially aims at ensuring that 1) explicit cross-border participation is indeed possible, 2) foreign capacity providers and local ones are treated equally, and 3) foreign capacity providers can bring a true added-value compared to a methodology whereby their contribution would only be taken into account implicitly.

20.4 Beyond that, any reference model for CRMs should ensure that the energy price formation, including scarcity prices, is not distorted either in the short-term or in the longer-term. As emphasised in our answer to Question 1, scarcity prices, provided they reflect the functioning of truly competitive markets, should become a key component of the future market design.

Q21) Should the decision to introduce capacity mechanisms be based on a harmonised methodology to assess power system adequacy?

21.1 Yes. In an integrated European energy market, security of supply (and other related issues) is no longer exclusively a national consideration. The decision to introduce a capacity mechanism should be based on an EU-wide harmonised methodology to assess power system adequacy, while its implementation should be coordinated at regional level and allows for explicit cross-border participation, as emphasised in our feedback to Question 20.



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