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Stellungnahme

Common Schema for the Disclosure of Inside Information
Public Consultation Paper

PC_2015_R_03

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Interest Representative Register ID: 20457441380-38

General Remarks:

BDEW welcomes the opportunity to comment the common schema for the disclosure of inside information.

BDEW appreciates the steps taken by ACER to harmonize the current practice for the disclosure of outage information and other insider information as part of the overall term "insider information" according to article 4 paragraph 1 and article 2 paragraph 1a-d of Regulation 1227/2011. In general, the consultation paper does not distinguish between fields which should be displayed on a website and which only be part of a RRS-Feeds. The BDEW response will therefore make suggestions, accordingly to the consultation answer of EEX, where this is applicable. This shortcoming should be particularly taken into account since a lengthy list of EIC codes on a public website will not help any customer to track any insider information over time. However, those codes are in contrast a valuable instrument for a RSS-Feed designed for further data processing.

Please note that BDEW has added a detailed table which contains detailed remarks to the proposed data fields.

Questions related to the proposed schemas

1. **Would you add any other field not included in the current proposal? If so, please explain your reasoning.**

BDEW sees no need to add other fields which are not included in the current proposal. However there are some Data field where BDEW sees the need of clarification or additional information. Please see the added table.

2. **Would you remove any field represented in the current proposal? If so, please explain your reasoning.**

BDEW would recommend to remove the following fields:

- Available Capacity (electricity capacity) and Available Capacity (gas capacity)
- Decision Time (gas and electricity and other)

We refer to the reason in the attached table.

- Impact on emission allowance price

We refer to the reason in the attached table but appreciate ACER's approach to create synergies in the disclosure process under REMIT and MAR. However, before a decision outside of the Regulation 1227/2011 can be made a clear coordination and a binding agreement with ESMA needs to be ensured. Unless such an agreement is available to the market participants we continue to refuse this field entirely.

3. Would you change any of the descriptions, accepted values or applicability? If so, please explain your reasoning. Are the schemas or values that you are suggesting based on any industry standard? Which one(s)?

Regarding field No 2 "Update ID": referring to line 4 of page 10 of the ACER document, BDEW would like to comment that the example is not appropriate for the natural gas market because it's not possible that an unplanned outage become a planned outage. Indeed there is a clear rule in the Chapter 3, Annex I of Reg. (EU) No. 715/2009 [Art. 3.3.1 (g)]: everything that is known 42 days in advance is considered as planned and every measure known shorter than 42 days in advance is considered as unplanned.

In respect of the Message Types listed under 4b) BDEW is not of the opinion that such a detailed list of circumstances is needed and regards some elements as redundant. Especially the reference to contractual agreements is seen critical and not in line with the requirements in level 1 text of REMIT. It should be deleted.

According to article 2 (1) of REMIT the information is based on capacities and the use of facilities and not on contractual rights; lit. (a) to (c) are referring clearly to fixed assets. The unspecific wording of lit. (d) cannot be stretched to include bilateral contracts with confidential contents. If such information would be covered, than all contractual arrangements in gas as well as in power would be in scope of this clause and not only import contracts as listed in 4b) of the Consultation Paper.

Such interpretation is in no way justified. The conditions of bilateral contracts are private, confidential, and individually agreed between the counterparties. It is part of the business strategy of each company to build up a portfolio with different contracts and locations. A publication of such information, esp. # 6b), 10b), 11b) and 12b), would harm the business of the company concerned significantly and sustainably.

To avoid immediate adverse effects on the business the legislator defined in Art. 3.4 of REMIT exemptions under which a publication is not necessary or can be postponed. However, Art. 3.4. (b) is solely referring to the owner of fixed assets which also shows that the contractual rights and the counterparties of a contract are not in the focus of REMIT. Finally, the direct obligation to publish inside information in Art. 4.1. REMIT is referring again only to the holders of fixed assets.

In addition to the failure of legal basis in the level 1 text of REMIT also practical aspects are against the inclusion of bilateral agreements. Such contracts containing flexibility to manage the own portfolio for both, the buyer and the seller. The volumes, route and delivery period might therefore vary significantly within the condition of the contract and it is not clear which circumstances might be qualified as "curtailment". For instance, changes in nominations within the timeline for submission of revised nominations within contractual flexibilities of the counterparties cannot be understood as a "curtailment". The other party can also only speculate about the reasons of a curtailment of the counterparty but cannot assess the situation and the potential effects on the wholesale energy market entirely and publish the information precisely. Therefore the publishing party might risk publishing misleading information, which is not acceptable considering some of the national penalties for that behavior.

Question related to the implementation of web feeds

4. Do you agree with the use of RSS or ATOM feeds to fulfill the requirement under Article 10(1) of the REMIT Implementing Regulation?

In principle, BDEW agrees with the use of the RSS feeds to fulfill the requirements under article 10 paragraph 1 of REMIT Implementing Regulation. RSS seems to be the more common format for the provision of web feeds. However, RSS and ATOM are not the only systems currently used. Changing working and accepted systems without clear benefit only requires useless efforts. Therefore, we recommend RSS and ATOM not to be mandated as the only available technologies for web feed data collection. Instead, ACER should be technology neutral.

Furthermore, RSS is an old pull technology that could compromise regulatory reporting as frequent polling will be used to capture UMMs events and this could degrade website performance. The traditional pull-based architecture are only efficient when updates are produced at regular or well-known intervals. UMMs don't follow such regular patterns and therefore users must repeat the pull request arbitrarily often – possibly every second. Frequent pulling turns into a scaling problem when many concurrent users try to capture all updates when they occur. We propose to use alternatively a newer push technology which are more effective and resilient for the publisher and recipient technology using protocols like AMQP, Openwire or Stomp.

In addition, BDEW sees a problem depending on the proposed period of data availability of 2 years. Transparency platforms receives a large number of messages every day, and for some platforms displaying messages for two years would imply that several hundred thousand messages would have to be displayed.

From a usability and technology perspective BDEW sees possible problems in size, performance and readability of the RSS feed. This might also be a problem for the publishing entities (like transparency platform operators) also for the market participants and the public which are using these RSS feeds.

BDEW would recommend differentiating between websites and RSS-Feeds again. The publication is fulfilled if the insider information is published in a timely manner on a website. Data should be kept available for a period of 2 years as proposed. But for disclosure to ACER in the RSS feed, BDEW would like to recommend a time period of the last 24 hours. The RSS-Feed would then contain all outage data which had been reported within the last 24 hours.

For further details on the single data fields please see the following table.

a) Outage insider information

Electricity	Gas	Suggestion	
Message ID	Message ID	Website/ RSS-Feed	✓
Update ID		Website/ RSS-Feed	An update ID is not necessary and would inflate the display of data. It is simply sufficient to show the date and time of the publication which is connected with any update of the outage event. This also allows to sort updates of a single event.
Event Status	Event Status	Website/ RSS-Feed	The proposal contains a number of completely redundant values. ACER should better focus on two alternatives only. An event is either still valid and will start and end according to its announcement or is not valid anymore and marked as such. Any other proposed status can be derived from other information: - Update: same event id, second data set with newer publication time - Closed: If the duration of an event ends it is still valid in a historical sense but not relevant anymore. The status closed does not provide any further relevant information. - Cancelled/Withdrawn: The difference between both might be academic but does not change anything for the market. An event is simply not applicable anymore and should be marked as such with a single status.
Message Type	Message Type	Website	This information is only relevant if all outage information is shown in a single table. If this is not the case and the applicable combination of commodity and value chain stage is understandable from any other item (i.e. navigation structure) it should not be mandatory but optional. ELECTRICITY: Moreover, storage unavailability is missing with a view on article 4 of Regulation 1227/2011. A separation of transmission and offshore infrastructure is redundant and will make data structure unnecessarily complex. GAS: The list is even more redundant and is highly questionable whether these specific separations are in line with the original wording of article 4. The unavailabilities per commodity/value chain stages are required in REG (EU) No. 1227/2011. In this meaning BDEW recommends to focus on production and consumption unavailability as well as the injection and the withdrawal un-availabilities of storage and LNG facilities. The field should also contain the choice "Other" because it is not possible to standardize ex ante any possible

			event affecting wholesale energy price. The field No 17 "Remarks" will be used for the explanation of the event. In addition there are further events, not mentioned in the list of accepted values, like: • technical problems in IT-systems of booking capacity platforms; • technical problems in IT-systems of TSOs; • etc.
		RSS-Feed	The field as such is fine in the RSS-Feed. ELECTRICITY: Moreover, storage unavailability is missing with a view on article 4 of Regulation 1227/2011. A separation of transmission and offshore infrastructure is redundant and will make data structure unnecessarily complex. GAS: The list is even more redundant and is highly questionable whether these specific separations are in line with the original wording of article 4. The unavailabilities per commodity/value chain stages are required in 1227/2011. In this meaning BDEW recommends to focus on production and consumption unavailability as well as the injection and the withdrawal unavailabilities of storage and LNG facilities.
Type of Event	Type of Event	Website/ RSS-Feed	We agree although the terms "planned" and "unplanned" would be fully sufficient.
Affected Asset	Affected Asset	Website/ RSS-Feed	In general two fields should be foreseen to allow a precise display of the affected facility and its units. This could work for all commodity/value chain stage combinations. If only the unit field can be covered the facility field should be left blank.
Affected Asset EIC Code	Affected Asset EIC Code	Website	It does not make sense to overload a public website with codes. The code is not self-explaining and gives no additional value to the publishing website but makes it less clear.
		RSS-Feed	We agree with the EIC codes but recommend to split it up for facilities and units. Otherwise it remains unclear what code needs to be displayed.
Fuel type		Website/ RSS-Feed	We agree with the proposal but continue to recommend a more stringent and non-redundant naming of the fuel types. Which would be beneficial for website. This applies to the unnecessary "Fossil" and "Hydro" terms.
Bidding Zone	Balancing Zone	Website/ RSS-Feed	Electricity: We recommend to display the control area as smallest unit of a balancing zone. This makes the schema more robust against changes of the bidding zone and provides more information. GAS: We fully agree.
Unavailable capacity	Unavailable capacity	Website/ RSS-Feed	IN GENERAL: Any unit measurement should be defined by the final schema and not be sent again and again in the RSS-Feed. However, the unit measurement should of course be available on the public website.

			ELECTRICITY: We fully agree. Regarding 10b) GAS: it is unclear if the accepted value "number" as well includes percentages. Some further descriptions would be helpful e.g. only to report if contracts are affected.In many cases the exact value or even an estimate can't be given in case of an unplanned event. Furthermore outages of platforms or IT failures in TSOs' backend systems can't be expressed in a concrete number of "Unavailable Capacity". Therefore field No 10/b "Unavailable Capacity" should be optional. In addition BDEW prefers to use as measurement unit for gas transmission capacities the "kWh/d" or "kWh/h" instead of "MWh/d" as stated in Art.10 of CAM NC;
Available capacity	Available unplanned unavailability of capacity	Website/ RSS-Feed	This field is neither required by article 4 paragraph 1 of Regulation 1227/2011 nor does it make sense. An outage is usually not a static event with a begin and an end point and a stationary value in between. It is a number of individual events which overlap each other. An available capacity is therefore not derivable on the event level. If ACER would continue to require such a calculation we assume that reporting companies stop to model ramps accurately and change its reporting to a single event with very frequent updates. This will result in a massive increase of data load and make data consumer losing control of the data. If such a calculation is still required, BDEW would like to clarify that SSOs identified as market participants, are obliged to report information relevant to the capacity and use of facilities for storage, including planned or unplanned unavailability of these facilities. So therefore BDEW suggests changing 11b) into "optional" applicability or remove it. Please notice also the above mentioned field "Unavailable Capacity". In addition BDEW prefers to use as measurement unit for gas transmission capacities the "kWh/d" or "kWh/h" as stated in Art.10 of CAM NC instead of "MWh/d".
Nominal capacity	Nominal capacity	Website/ RSS-Feed	The information could be provided per event but it must be clear that this capacity is strictly per unit and further events could apply at the same time. Regarding 12b) the meaning and the exception for storage capacities are unclear. Further descriptions are necessary or BDEW suggests changing it into "optional" applicability With regards to gas transmission capacities the field should be renamed as "Technical Capacity". TSOs consider the "Nominal Capacity" as the technical available capacity. In addition BDEW prefers to use as measurement unit for gas transmission capacities the "kWh/d" or "kWh/h" as stated in Art.10 of CAM NC instead of "MWh/d".
Published	Published	Website/ RSS-	✓

		Feed	
Decision Time	Decision Time	Website/ RSS-Feed	The indication of a decision time is neither required by Regulation 1227/2011 nor practically existent as described by ACER. It could be even misleading and may lead to an artificial filling of this field. Market participants have important concerns against such a requirement as it represents a considerable compliance challenge and risk to identify the decision as such, the persons taking this decision and the time of decision taking. Referring to your example "… the management board decides on the maintenance plan on Date1…". What is the legally binding decision time (Date1)? The time on which the management board orally finalized/agreed the plan? The time on which the assistant finalized writing the decision into a document? What should be assessed from that? The efficiency of the internal post-board meeting process? Would ACER set a timeframe for it? Referring to your description of the field "Decision time" "Note: for an unplanned unavailability the "Decision Time" may be the same as "Event Start". If that would be the case what is the added value of this information then? If that is not the case: normally, dispatch or employees of a facility/unit notices an unplanned outage few seconds/minutes after the outage. When having checked the system status/certain log information they may determine the exact time for the loss of output. Decision time could then be either the individual realization of the event by dispatch staff, the time when having finally checked the logged information or, again, the event start itself. This is highly arbitrary and does not provide any value to the market. We strongly recommend to abstain from this field. When ACER would like to monitor the compliance with the insider trading prohibition it is much more straightforward to compare publication time stamps with time stamps of trading actions (orders/transactions).
Event Start	Event Start	Website/ RSS-Feed	✓
Event Stop	Event Stop	Website/ RSS-Feed	This Field should be optional or provide possibility to publish "unknown". In many cases a valid estimation for the end of an event cannot be given.
Remarks	Remarks	Website/ RSS-Feed	The field should be renamed as "UMM description" and be prioritized higher than momentarily. UMMs are by nature unusual events which are typically not covered by usual transparency publications and events that cannot be forecasted or standardised (otherwise they would be covered by usual transparency obligations). BDEW would recommend adding the information about the reason of a non-usability. If possible common standards and a lower number of options should be used as

			an outage might have multiple reasons: there is good experience with standard terms such as "Other", "Outage", "Maintenance" and "External factors". BDEW recommends abstaining from more redundant descriptions like "Forced outage" and "Planned maintenance" as used by ENTSO-E. This is a helpful information used and requested by market participants and the public.
ACER registration code or unique market participant code	ACER registration code or unique market participant code	Website	✓
		RSS-Feed	✓
Market Participant	Market Participant	Website/ RSS-Feed	We agree to list the name, both for the website and in the RSS-Feed.
Impact on carbon prices	Impact on carbon prices	Website/ RSS-Feed	BDEW would support such approach if ACER and ESMA agree in a legally binding way that outage information released under REMIT is considered to achieve a simultaneous compliance under MAR and the field remains optional. The filling could then be triggered by outage threshold levels or CO2 relevant fuel types as defined by ESMA and only by those market participants, who possess insider information on CO2.

b) Other insider information

The schema proposed by ACER is to some extent redundant to the schema for outage information and does not work for what we expect as other insider information. We agree to require Message ID [1], Published [13], Remarks [17], registration code [18] and market participant [19] including the comments made under outage insider information under a).

BDEW understands other insider information as information which cannot be displayed in the highly standardized way of outage information. We would expect text messages here which explain or highlight certain relevant circumstances. For that reason we strongly recommend to focus on the suggested set of data fields and to abstain from any other field.

Ansprechpartner:

[redacted]