

**ENTSOLOG Response to ACER Public Consultation on the recommendations to the European Commission as regards the records of wholesale energy market transactions, including orders to trade, and as regards the implementing acts according to Article 8 of Regulation (EU) No 1227/2011**

## Introduction

ENTSOLOG welcomes the opportunity to respond to ACER's public consultation on Recommendations of the Commission as regards to the records of wholesale energy market transactions, including to trade, and as regards to the implementation act according to Article 8 of Regulation (EU) No 1227/2011( PC\_2012\_R\_10) .

ENTSOLOG's response consists of the following two sections:

- Section I: ENTSOG key messages
- Section II: a detailed response to the questionnaire set out in the ACER consultation document. The consultation questions posed by ACER are addressed along with the response where they pertain.

ENTSOLOG's aspiration with this response is to support ACER's efforts in furtherance of further development of clear guidelines for all market participants, providing a sound basis for the implementation and coordination of REMIT.

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## Key Messages

### 1. Prevention of double reporting

ENTSOG notes that the document does not envisage clearly the preventing of double information provision. Indeed, REMIT expressly foresees that there shall be no duplication if already covered by a separated regulation.

It has to be stressed that European TSOs have already undertaken huge efforts to promote transparency for stakeholders (e.g. individual TSO Platforms and ENTSOG's Transparency Platform).

ENTSOG is of the opinion that avoidance of double reporting should be handled by the implementation acts of the Commission.

### 2. Data Security and amount of data

As REMIT assigns ACER the task of forming a centralised European register of energy market participants, collecting information on transactions and data on the physical situation and condition of European gas systems, ENTSOG regards it as critically important to have appropriate data security measures installed on the IT communication and systems in use.

Additionally, ENTSOG wants to draw ACER's attention to the extent of the amount of data to be reported, which requires well established data formats and powerful data connections.

Furthermore, ENTSOG sees a need for clearly defining which market participant is responsible for reporting/publishing each set of data covered. The identification of the role and responsibilities should be done carefully in order that the information is provided in the most efficient and cost effective manner possible.

## Detailed response to the questions

### **Question 1**

Do you agree with the proposed definitions? If not, please indicate alternative proposals.

#### **Response:**

Many definitions are not clear and create more confusion than help to clarify how such regulation will have to be implemented. Consistency should be ensured with the other existing regulations and the content is to be worked on to have legal definitions.

### **Question 2**

What are your views regarding the details to be included in the records of transactions as foreseen in Annex II? Do you agree that a distinction should be made between standardized and non-standardized contracts? Do you agree with the proposal on the unique identifier for market participants?

#### **Response:**

A distinction should be made between the two types of contracts as long as it is based on objective criteria and comply with the principle of equal treatment and non-discrimination to avoid creating additional obligation(s) where not justified.

ENTSOG strongly recommends the EIC Codes as an Unique Identifier as this scheme is widely established amongst European gas market participants.

### **Question 3**

Do you agree with the proposed way forward to collect orders to trade from organized market places, i.e. energy exchanges and broker platforms? Do you think that the proposed fields in Annex II.1 will be sufficient to capture the specificities of orders, in particular as regards orders for auctions?

#### **Response:**

This information of network user being available at auction and trading platforms, a reporting should be undertaken by the relevant operator (as RRM) of a platform or the network user directly to ACER to ensure the efficiency of the reporting.

The obligation of reporting data shall remain with the entity naturally in the best position to detain it being in principle the owner of such information.

#### **Question 4**

Do you agree with the proposed way forward concerning the collection of transactions in non-standardized contracts? Please indicate your view on the proposed records of transactions as foreseen in Annex II.2, in particular on the fields considered mandatory.

#### **Response:**

No Comment. ENTSOG recommends to have the details requested in Annex II.2 are well defined and clearly specified (e.g. what is a place of Transaction if the capacity is sold on an auction platform?)

#### **Question 5**

Please indicate your views on the proposed collection of scheduling/nomination information. Should there be a separate Annex II.3 for the collection of scheduling/nomination data through TSOs or third parties delegated by TSOs?

#### **Response:**

This additional task beyond the existing obligation of the TSOs is not seen as relevant for the purpose of REMIT. It should be noted that TSOs may not have available all of the information prescribed in this section (e.g. prices) and therefore will not be able to provide all information.

The obligation of reporting data shall remain with the entity naturally in the best position to detain it being in principle the owner of such information.

#### **Question 6**

What are your views on the above-mentioned list of contracts according to Article 8(2)(a) of the Regulation (Annex III)? Which further wholesale energy products should be covered? Do you agree that the list of contracts in Annex III should be kept rather general? Do you agree that the Agency should establish and maintain an updated list of wholesale energy contracts admitted to trading on organized market places similar to ESMA's MiFID database? What are your views on the idea of developing product taxonomy and make the reporting obligation of standardized contracts dependent from the recording in the Agency's list of specified wholesale energy contracts?

#### **Response:**

It is ENTSOG's view that transmission should not be considered as an energy commodity and therefore be excluded from Annex III, section B.

#### **Question 7**

Which of the three options listed above would you consider being the most appropriate concerning the de minimis threshold for the reporting of wholesale energy transactions? In case you consider a de minimis threshold necessary, do you consider that a threshold of 2 MW as foreseen in Option B is an appropriate threshold for small producers? Please specify your reasons.

**Response:**

Such a rule shall apply on a symmetric way and need to prevent unnecessary reporting where not relevant and therefore it would be preferable to base it on the amount of the transaction considered or group of transactions if relevant.

ENTSOG notes that under Regulation (EC) 715/2009 no threshold applies as to the publication of data. A threshold for reporting such information could lead to additional administrative burdens, with additional costs if not consistent and based on relevant criteria. A proposal that can be formulated by TSO would be the case of unplanned outages of facilities regarding Art. 8 V to limit the reporting obligation where the physical outage of a facility leads to interruption of firm capacities.

**Question 8**

Are there alternative options that could complement or replace the three listed above?

**Response:**

No Comment.

**Question 9**

Do you agree with the proposed approach of a mandatory reporting of transactions in standardized contracts through RRM's?

**Response:**

ENTSOG does not oppose to the introduction of RRM's however this should be subject to a choice of the market participants to act as RRM or not.

**Question 10**

Do you believe the Commission through the implementing acts or the Agency when registering RRM's should adopt one single standardized trade and process data format for different classes of data (pre-trade/execution/post-trade data) to facilitate reporting and to increase standardization in the market? Should this issue be left to the Commission or to the Agency to define?

**Response:**

ENTSOG would advocate having this issue defined by the Commission or ACER in the light of feedbacks of the stakeholders received through a public consultation.

**Question 11**

Do you agree that market participants should be eligible to become RRM's themselves if they fulfill the relevant organizational requirements?

**Response:**

ENTSOG does not oppose to the introduction of RRM's however this should be subject to a choice of the market participants to act as RRM or not. (See Response 9)

**Question 12**

In your view, should a distinction be made between transactions in standardized and non-standardized contracts and reporting of the latter ones is done directly to the Agency on a monthly basis?

**Response:**

Reporting should be in any case implemented with as little administrative burden as possible for market participants.

**Question 13**

In view of developments in EU financial market legislation, would you agree with the proposed approach for the avoidance of double reporting?

**Response:**

The document does not envisage clearly how to prevent double reporting and the assignees to undertake this task. It is ENTSOG's opinion that the Commission has to ensure through the establishment of reliable monitoring mechanisms that double reporting is avoided. ENTSOG cannot support the current approach as it does not clarify enough the avoidance of double reporting in particular for TSOs, e.g. derivatives are not seen as an obligation for reporting by TSOs within REMIT.

**Question 14**

Do you agree with the proposed approach concerning reporting channels?

**Response:**

ENTSOG does not oppose to the introduction of RRM's however this should be subject to a choice of the market participants to act as RRM or not. (See response 9).

**Question 15**

In your view, how much time would it take to implement the above-mentioned organizational requirements for reporting channels?

**Response:**

In general, a high quality system for reliable reporting channels should have higher priority than fast implementation. The period for implementation differs depending on the detailed specifications or

requirements. TSOs are willing to contribute to the discussion regarding requirements and appropriate time scales, if necessary.

**Question 16**

Do you agree with this approach of reporting inside and transparency information?

**Response:**

ENTSOG is not of the opinion that reporting individual, non-anonymous and disaggregated data, which is beyond the scope of (EC) 715/2009 is relevant to the purposes of REMIT.

**Question 17**

Please indicate your views on the proposed way forward on the collection of regulated information.

**Response:**

From an ENTSOG and TSO point of view regulated information in a sensible granularity is already published via TSO websites in aggregated form. Reporting structures, which allow the NRA to receive the regulated transparency information instead of visiting TSO websites are either already in place or in an implementation phase and should be taken into account for fulfilling the REMIT obligations and avoid unnecessary measures.

**Question 18**

Do you agree with the proposed approach for the reporting of regulated information? Please indicate your view on the proposed mandatory reporting of regulated information through RISs and transparency platforms. Should there remain at least one reporting channel for market participants to report directly to the Agency?

**Response:**

As to the regulated information, TSOs for gas sector are already providing regulated transparency information under (EC) 715/2009 on their individual websites. As from 1 October 2013 the information will be also available on ENTSOG's Transparency Platform and could be downloaded by ACER.

**Question 19**

The recommendation does not foresee any threshold for the reporting of regulated information. Please indicate whether, and if so why, you consider a reporting threshold for regulated information necessary.

**Response:**

A threshold would add unnecessary complexity and additional administrative burden if not based on objective criteria. For regulatory information which is already published under another regulation without threshold it would not be consistent. (See Response 7)

**Question 20**

What is your view on the proposed timing and form of reporting?

**Response:**

ENTSOG agrees with having the regulated information at the same time reported to the Agency in an electronic form as it is disclosed to the public except where specific circumstances prevent it.