

IE RESPONSE ON THE COMMON SCHEMA FOR THE DISCLOSURE OF INSIDE INFORMATION ACER PUBLIC CONSULTATION PAPER PC_2015_R_03

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Introduction

IFIEC welcomes the opportunity given by ACER to give reasonable feedback on the disclosure of inside information in order to reach an efficient outcome of the process. We support free and transparent markets and also welcome the principle behind many disclosure elements of REMIT, but on the conditions that i) some sense of proportion is applied around end-users, most of whom are explicitly forbidden to speculate, and ii) commercial confidentiality is retained where outages for end-users could have a disproportionate impact on their market situation. IFIEC has significant concerns about the confidentiality of information in the current proposal. In the worst case, industrial companies could end up publishing commercially sensitive information into their own raw material and product markets.

Publishing of detailed information

REMIT foresees the obligation to report inside information. In electricity there is a threshold of 100 MW, while in gas the threshold is to be defined on national level. In the 2nd Edition of the ACER guidance on the application of REMIT market participants are given examples how and in what detail to publish the information. For large industrial energy consumers one point is very critical. The guidance suggests publishing the name and the location of the relevant asset.

If industrial consumers are forced to publish information with that kind of detail, the following situation might occur:

A company is using gas as a feedstock to produce an intermediate product. In the event of an outage the intermediate has to be bought on the market externally. The production facility for that intermediate product has a reporting obligation. The company would now have to publish in detail, that this specific production facility at its specific location has an outage. External suppliers of the intermediate product would immediately know that there is an urgent need for the company to buy that product on the free market. As a result of this disclosure, the company would have to pay more for the intermediate product because the external supplier has gained normally confidential information of the production process.

Publishing information in that kind of detail might also be interpreted as “signaling” by the competition authorities. The solution is that the company should only be required to publish the affected balancing zone instead of its name and location of the asset. In general, the transparency regulation does not foresee that the name of the individual plant is made public. Normally the data are aggregated per bidding zone. It would be strange for REMIT to deviate from this. Individual plant data can be made available towards ACER – if really needed - but not made public.

The current proposal from ACER does not recognise those circumstances at all. Point 6/a Affected asset and 7/a Affected asset EIC code for electricity and 6/b Affected Asset and 7/b Affected Point EIC code for gas are still asking for unneeded details. We strongly advocate that those points will be deleted from the proposal and that ACER integrates safeguards for industrial end users not to publish commercially sensitive information.

Conclusion

IFIEC is in line with the goals of REMIT and fully supports its basic principles. However, REMIT can only be successful and efficient if reporting is limited to those occasions, which are really needed to evaluate whether prices are being manipulated.