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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	Comments from LT BE EE NL PL MT PT IT IE LU CZ DK FR HU ES on EMD proposal - consolidated table

Delegations will find in the annex the correct consolidated version of the comments from LT BE EE NL PL MT PT IT IE LU CZ DK FR HU ES on the EMD proposal.

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Commission proposal	Drafting Suggestions Comments
2023/0077 (COD) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	BE: (Comments): General Comment We are still analysing the different elements but our first and preliminary conclusions are 1. We welcome and support in principle the proposal by the commission and in particular the underlying objectives • To accelerate energy investments which ensure flexibility, capacity, and Security of Supply. This flexibility will contribute to the integration of renewable energy. • To increase liquidity in the long term markets and to strengthen the opportunities for energy market participants to engage and hedge in the longer run (e.g. the different proposals on development of long term products and contracts, coupling of forward market over bidding zones, ..) • To allow all European consumers to benefit from lower electricity prices • The framework for consumers to have the choice between affordable, stable and predictable prices and more dynamic prices that give the possibility for demand-side management. • However, we wonder how the interaction between all the old and new instruments (PPAs, CfDs, forward markets, flexibility schemes, auctions, zero-bid) will be managed and coordinated to work together cost-efficiently as supply of and demand for these products overlaps and the design may differ between Member States. 2. Belgium is already implementing several elements of the proposed market principles such as suppliers of last resort, two-sided CfDs and PPA's for some RES installations, protection measures for vulnerable consumers, energy sharing, etc. and wishes to strengthen them further. 3. Moreover, Belgium welcomes the recommendations on energy storage, and highlights it already applies them via different policy initiative It is important these national ongoing initiatives should not be delayed through this process, but on the contrary should benefit from some form of flexibility for early adopters.

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	4. We understand the need for speedy implementation of the proposals and stand ready to constructively cooperate with the Presidency to work on a swift adoption. However, where important transpositions are required, we should also allow MS for the necessary time to do so in qualitative way. There are many points that need to be clarified. We also underline the need to ensure consistency between the different new and existing texts, particularly in terms of concepts, vocabulary, and the continued implementation of the texts from 2019. 5. Although we see the merits of the current proposals, we propose nevertheless to analyse whether adjustments and prolongation of some emergency measures that have been deployed in 2022 are needed in order to ensure security of supply and can give shelter to European citizens, undertakings, and public authorities from extreme prices. 6. Even though we understand the need to act swiftly and the fact that a deep reform of the electricity market is unachievable under such short timing. We encourage the Commission to make an assessment of alternative market systems for (short-term) markets, in which both advantages and drawbacks are properly analysed, to avoid alternative systems distorting price signals, thereby endangering the benefits achieved up until now and possibly increasing the overall cost of the energy transition. Next to this general first conclusions, Belgium wants to express a general scrutiny reservation as it is still analysing the proposal. To conclude we have a general question on how the interaction between all the old and new instruments (PPAs, CfDs, forward markets, flexibility schemes) will be managed and coordinated to work together cost-efficiently as supply of and demand for these products overlaps and the design may differ between Member States? PT: (Comments): The Commission's proposals address the main concerns of Portugal. The right to fixed price

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	contracts, the protection from disconnection for vulnerable consumers, retail price regulation in the event of a crisis, and measures to empower consumers alongside to the facilitation of Power Purchase Agreements PPAs, implementation of two-way Contracts for Differences CfDs and Improvement of forward markets liquidity protects the consumers and increase investments in new production capacity. Additionally, can be also referred that: • The proposal put forward by the Commission is a good starting point. At this point in time, and as we are at the beginning of an evaluation process, we would like to point out some necessary clarifications. • Portugal believes that we should take advantage of the added value of the current design and the lessons that it has allowed us to learn. We cannot, however, put aside the need to improve and adapt this design to the developments that have taken place, not only in the growth of renewable sources, but also in the way electricity is produced and consumed. • It is also important to underline that this improvement on electricity market design is taking place in a complex geopolitical context. The results of this amendments will be widely evaluated by all agents, from producers to consumers, and it is important that the result allows the correct balance to guarantee the development of renewables and at the same time the protection of the consumers allowing the use of energy at affordable prices. There are, however, some aspects that should be include in the Commission's Proposal. • A relevant share of long-term contracts ensured a more resilient, less volatile market, with greater consumer protection during the current crisis. In Portugal Long-term contracts represent close to 40% of electricity production. As presented in the Portuguese non-paper we advocate that a minimum threshold of long-term contracts should be considered in the Commission's proposal.

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	• A measure was introduced, and in our view positively, to activate a safeguard clause that allows consumers to be protected from sharp price rises. However, the proposed wording needs to be better defined, as the conditions for its activation are too vague. It is necessary to define which markets are concerned and which prices are concerned. The wholesale market is not unique, nor is the retail market, so a correct definition of these assumptions is essential. This diversity is also important when it comes to the declaration of price crisis. It should also be set in a clearer and wider way, taking into account the national and regional specificities. The declaration of an electricity price crisis should be possible for Member States, addressing it to the COM. It is also crucial to reinforce energy cross border interconnections. Regarding electricity, we are still far from the target of 15% for 2030 (as agreed in the European Council of 23 and 24 October 2014 and defined in the Governance Regulation and in respective NECPs). The agreement reached between Portugal, Spain and France – including electricity interconnections and the creation of a green hydrogen corridor – is of strategic importance not only for these countries but also for Europe. The presented proposal makes no reference to the importance of cross border interconnections and that should be addressed. MT: (Comments): The proposal for the re-design of the electricity market introduces a number of amendments to existing provisions as well as new provisions which are considered as a step in the right direction. Although Malta has been pushing for a deeper reform of the electricity market design, our comments are aligned to the proposal which has been tabled.

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amending Regulations (EU) 2019/943 and (EU) 2019/942 as well as Directives (EU) 2018/2001 and (EU) 2019/944 to improve the Union's electricity market design	
(Text with EEA relevance)	
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,	
Having regard to the proposal from the European Commission,	

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After transmission of the draft legislative act to the national parliaments,	
Having regard to the opinion of the European Economic and Social Committee,	
Having regard to the opinion of the Committee of the Regions,	
Acting in accordance with the ordinary legislative procedure,	
Whereas:	
(1) Very high prices and volatility in electricity markets have been observed since September 2021. As set out by the European Agency for the Cooperation of Energy Regulators ('ACER') in its April 2022	

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assessment of EU wholesale electricity market design ¹ , this is mainly a consequence of the high price of gas, which is used as an input to generate electricity.	
(2) The escalation of the Russian military aggression against Ukraine, a Contracting Party of the Energy Community, and related international sanctions since February 2022 have disrupted global energy markets, exacerbated the problem of high gas prices, and have had significant knock-on impacts on electricity prices. The Russian invasion of Ukraine has also caused uncertainty on the supply of other commodities, such as hard coal and crude oil, used by power-generating installations. This has resulted in substantial additional increases in the volatility of price	

¹ European Union Agency for the Cooperation of Energy Regulators, ACER's Final Assessment of the EU Wholesale Electricity Market Design, April 2022.

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levels of electricity.	
(3) In response to this situation, the Communication on Energy Prices presented by the Commission in October 2021 contained a toolbox of measures that the EU and its Member States may use to address the immediate impact of high energy prices on households and businesses (including income support, tax breaks, gas savings and storage measures) and to strengthen resilience against future price shocks. In its Communication of 8 March 2022 entitled ‘REPowerEU: Joint European Action for more affordable, secure and sustainable energy’² the Commission outlined a series of additional measures to strengthen the toolbox	

² Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions - REPowerEU: Joint European Action for more affordable, secure and sustainable energy, COM/2022/108 final

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and to respond to rising energy prices. On 23 March 2022, the Commission also established a temporary State Aid regime to allow certain subsidies to soften the impact of high energy prices. ³	
(4) On 18 May 2022 the Commission presented the REPowerEU plan ⁴ that introduced additional measures focusing on energy savings, diversification of energy supplies and accelerated roll-out of renewable energy aiming at ending the Union's dependency on Russian fossil fuels, including a proposal to increase the Union's 2030 target for renewables to 45%. Furthermore, the Communication on Short-	

³ Communication from the Commission Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia C 131 I/01, C/2022/1890.

⁴ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions - REPowerEU Plan, COM(2022)230.

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Term Energy Market Interventions and Long-Term Improvements to the Electricity Market Design⁵, in addition to setting out additional short-term measures to tackle high energy prices identified potential areas for improving the electricity market design and announced the intention to assess these areas with a view to change the legislative framework.	
(5) To address urgently the price crisis and security concerns and to tackle the price hikes for citizens, and based on a series of Commission proposals, the Union adopted a strong gas storage regime⁶, effective demand	

⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Short-Term Energy Market Interventions and Long Term Improvements to the Electricity Market Design – a course for action, COM(2022) 236 final.

⁶ Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage (Text with EEA relevance), OJ L 173

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reduction measures for gas and electricity ⁷ , price limiting regimes to avoid windfall profits in both gas and electricity markets ⁸ and measures to accelerate the permit- granting procedures for renewable energy installations ⁹ .	
(6) A well-integrated market which builds on the Clean Energy for all Europeans Package adopted in 2018 and 2019 ¹⁰ should allow the Union to reap the economic benefits of a single energy market in normal market	

⁷ Council Regulation (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas, OJ L 206 and Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices, OJ L 261

⁸ Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices, OJ L 261.

⁹ Council Regulation (EU) 2022/2577 of 22 December 2022 laying down a framework to accelerate the deployment of renewable energy, OJ L 335, 29.12.2022.

¹⁰ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, OJ L 328, 21.12.2018, p. 1; Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast), OJ L 328, 21.12.2018, p. 82; Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency, OJ L 328, 21.12.2018, p. 210; Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (recast), OJ L 158, 14.6.2019, p. 22; Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), OJ L 158, 14.6.2019, p. 54; Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity (recast), OJ L 158, 14.6.2019, p. 125.

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circumstances, ensuring security of supply and sustaining the decarbonisation process. Cross-border interconnectivity also ensures safer, more reliable and efficient operation of the power system.	
(7) The current electricity market design has also helped the emergence of new and innovative products, services and measures on retail electricity markets, supporting energy efficiency and renewable energy uptake and enhancing choice so as to help consumers reduce their energy bills also through small-scale generation installations and emerging services for providing demand response. Building on and seizing the potential of the digitalisation of the energy system, such as active participation by consumers, should be a key element of our future electricity markets and systems. At the	

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same time, there is a need to respect consumer choices and allow consumers to benefit from a variety of contract offers.	
(8) In the context of the energy crisis, the current electricity market design has however also revealed a number of important shortcomings linked to the impact of high and volatile fossil fuel prices on short-term electricity markets, which expose households and companies to significant price spikes with effects on their electricity bills.	BE: (Drafting): In the context of the energy crisis, the current electricity market design has however also revealed a number of important shortcomings and unexpected consequences linked to the impact of high and volatile fossil fuel prices on short-term electricity markets, which expose households and companies to significant price spikes with effects on their electricity bills.
(9) A faster deployment of renewable energy and clean flexible technologies constitutes the most sustainable and cost-effective way of structurally reducing the demand for fossil fuels for electricity generation and for direct consumption through electrification and energy system	

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integration. Thanks to their low operational costs, renewable sources can positively impact electricity prices across the Union and reduce direct consumption of fossil fuels.	
(10) The changes to the electricity market design should ensure that the benefits from rising renewable power deployment, and the energy transition as a whole, are brought to consumers, including the most vulnerable ones, and ultimately, shield them from energy crises and avoid more households falling into energy poverty trap. These should mitigate the impact of high fossil fuel prices, notably that of gas, on electricity prices, aiming to allow households and companies to reap the benefits of affordable and secure energy from sustainable renewable and low carbon sources in the longer term.	

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(11) The reform of the electricity market design should benefit not just household consumers but also the competitiveness of the Union's industries by facilitating their possibilities to make the clean tech investments they require to meet their net zero transition paths. The energy transition in the Union needs to be supported by a strong clean technology manufacturing basis. These reforms will support the affordable electrification of industry and the Union's position as a global leader in terms of research and innovation in clean energy technologies.	ES: (Drafting): (11) The reform of the electricity market design should pursue the procurement of affordable and competitive electricity prices for all consumers. As such, it should benefit not just household consumers but also the competitiveness of the Union's industries by facilitating their possibilities to make the clean tech investments they require to meet their net zero transition paths, The energy transition in the Union needs to be supported by a strong clean technology manufacturing basis. These reforms will support the affordable electrification of industry and the Union's position as a global leader in terms of research and innovation in clean energy technologies.
(12) Well-functioning and efficient short-term markets are a key tool for the integration of renewable energy and flexibility sources in the market and facilitate energy system integration in a cost-effective	

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manner.	
(13) Intraday markets are particularly important for the integration of variable renewable energy sources in the electricity system at the least cost as they give the possibility to market participants to trade shortages or surplus of electricity closer to the time of delivery. Since variable renewable energy generators are only able to accurately estimate their production close to the delivery time, it is crucial for them to have a maximum of trading opportunities via access to a liquid market as close as possible to the time of delivery of the electricity.	IE: (Comments): Not sure what “as close as possible to the time of delivery” means here. It may be technically possible to have gate closure very close to real time, but not beneficial overall.
(14) It is therefore important for the intraday markets to adapt to the participation of variable renewable energy technologies such as solar and wind as well as	LT: (Drafting): (14) It is therefore important for the intraday markets to adapt to the participation of variable

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to the participation of demand side response and storage. The liquidity of the intraday markets should be improved with the sharing of the order books between market operators within a bidding zone, also when the cross-zonal capacities are set to zero or after the gate closure time of the intraday market. Furthermore, the gate closure time of the intraday market should be set closer to the time of delivery to maximize the opportunities for market participants to trade shortages and surplus of electricity and contribute to better integrating variable renewables in the electricity system.	renewable energy technologies such as solar and wind as well as to the participation of demand side response and storage. The liquidity of the intraday markets should be improved with the sharing of the order books between market operators within a bidding zone, also when the cross-zonal capacities are set to zero or after the LT: (Comments): There is a term ‘demand response’ defined in the Directive (EU) 2019/944: ‘demand response’ means the change of electricity load by final customers from their normal or current consumption patterns in response to market signals, including in response to time-variable electricity prices or incentive payments, or in response to the acceptance of the final customer's bid to sell demand reduction or increase at a price in an organised market as defined in point (4) of Article 2 of Commission Implementing Regulation (EU) No 1348/2014 (17), whether alone or through aggregation. It is not clear whether ‘demand side response’ has the same meaning in this context. If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, the meaning of demand side response should be explained or defined. Where needed, the term ‘demand response’ should be used consistently. ES:

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	(Drafting): (14) It is therefore important for the intraday markets to adapt to the participation of variable renewable energy technologies such as solar and wind as well as to the participation of demand side response and storage. The liquidity of the intraday markets should be improved with the sharing of the order books between market operators within a bidding zone, also when the cross-zonal capacities are set to zero or after the gate closure time of the intraday market. Furthermore, the gate closure time of the intraday market should be set closer to the time of delivery to maximize the opportunities for market participants to trade shortages and surplus of electricity and contribute to better integrating variable renewables in the electricity system. Nevertheless, in some Member States where european balancing platforms are in place and renewable energy technologies may participate, this shortening of the closure gate should anylised carefully, because in those cases TSOs display added value in terms of grid congestion management that cannot be ignored. As a result, where recommended by a cost-benefit analysis run by national regulatory authorities, the deadline stablished in the regulation to set the gate closure time of the intraday market closer to the time of delivery may be delayed. HU (Drafting): The liquidity of the intraday auction markets should be improved with the sharing of the order books between market operators within a bidding zone, also when the cross-zonal capacities are set to zero or after the gate closure time of the intraday auction market. Furthermore, the gate closure time of the intraday auction market should be set closer to the time of delivery to maximize the opportunities for market participants to trade shortages and surplus of electricity and contribute to better integrating variable renewables in the electricity system.

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(15) In addition, the short-term electricity markets should ensure that small-scale flexibility service providers can participate by lowering the minimum bid size.	
(16) To ensure the efficient integration of electricity generated from variable renewable energy sources and to reduce the need for fossil-fuel based electricity generation in times when there is high demand for electricity combined with low levels of electricity generation from variable renewable energy sources, it should be possible for transmission system operators to design a peak shaving product enabling demand response to contribute to decreasing peaks of consumption in the electricity system at specific hours of the day. The peak shaving product should contribute to	LT: (Drafting): (16) To ensure the efficient integration of electricity generated from variable renewable energy sources and to reduce the need for fossil-fuel based electricity generation in times when there is high demand for electricity combined with low levels of electricity generation from variable renewable energy sources, it should be possible for transmission system operators to design a peak shaving product enabling demand response to contribute to decreasing peaks of consumption in the electricity system at specific hours of the day. The peak shaving product should contribute to maximize the integration of electricity produced from renewable sources into the system by shifting the electricity consumption to moments of the day with higher renewable electricity generation. As the peak shaving product aims to reduce and shift the electricity consumption, the scope of this product should be limited to demand side response. The procurement of the peak shaving product should take place in such a way that it does not

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maximize the integration of electricity produced from renewable sources into the system by shifting the electricity consumption to moments of the day with higher renewable electricity generation. As the peak shaving product aims to reduce and shift the electricity consumption, the scope of this product should be limited to demand side response. The procurement of the peak shaving product should take place in such a way that it does not overlap with the activation of balancing products which aim at maintaining the frequency of the electricity system stable. In order to verify volumes of activated demand reduction, the transmission system operator should use a baseline reflecting the expected electricity consumption without the activation of the peak shaving product.	overlap with the activation of balancing products which aim at maintaining the frequency of the electricity system stable. In order to verify volumes of activated demand reduction, the transmission system operator should use a baseline reflecting the expected electricity consumption without the activation of the peak shaving product. LT: (Comments): If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, it should be explained or defined. The term ‘demand response’ should be used consistently. BE: (Drafting): The peak shaving product should contribute to maximize the integration of electricity produced from renewable sources into the system by shifting the electricity consumption to moments of the day with higher supply margin with higher renewable electricity generation. As the peak shaving product aims to reduce and shift the electricity consumption, the scope of this product should be limited to demand side response. The procurement of the peak shaving product should take place in such a way that it does not overlap with the activation of balancing products which aim at maintaining the frequency of the electricity system stable. In order to verify volumes of activated demand reduction, the transmission system operator should use a baseline reflecting the expected electricity consumption without the activation of the peak shaving product. MT:

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	(Drafting): (16) To ensure the efficient integration of electricity generated from variable renewable energy sources and to reduce the need for fossil-fuel based electricity generation in times when there is high demand for electricity combined with low levels of electricity generation from variable renewable energy sources, it should be possible for transmission system operators and distribution system operators to design a peak shaving product enabling demand response to contribute to decreasing peaks of consumption in the electricity system at specific hours of the day. The peak shaving product should contribute to maximize the integration of electricity produced from renewable sources into the system by shifting the electricity consumption to moments of the day with higher renewable electricity generation. As the peak shaving product aims to reduce and shift the electricity consumption, the scope of this product should be limited to demand side response. The procurement of the peak shaving product should take place in such a way that it does not overlap with the activation of balancing products which aim at maintaining the frequency of the electricity system stable. In order to verify volumes of activated demand reduction, the transmission system operator should use a baseline reflecting the expected electricity consumption without the activation of the peak shaving product. MT: (Comments): Malta supports this principle as it is aligned with its intended use of battery storage. However,

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	in Malta's case, given that there is no TSO, but only a DSO, the principle should be widened.
(17) In order to be able to actively participate in the electricity markets and to provide their flexibility, consumers are progressively equipped with smart metering systems. However, in a number of Member States the roll-out of smart metering systems is still slow. In those instances where smart metering systems are not yet installed and in instances where smart metering systems do not provide for the sufficient level of data granularity, transmission and distribution system operators should be able to use data from dedicated metering devices for the observability and settlement of flexibility services such as demand response and energy storage. Enabling the use of data from dedicated metering devices for observability and settlement should facilitate the active	FR: (Drafting): (17) In order to be able to actively participate in the electricity markets and to provide their flexibility, consumers are progressively equipped with smart metering systems. Member States shall ensure that all customers are entitled to have more than one metering and billing point covered by the single connection point for their premises. Member states shall chose wether the connection cost has to be supported by customers. However, in a number of Member States the roll-out of smart metering systems is still slow. In those instances where smart metering systems are not yet installed and in instances where smart metering systems do not provide for the sufficient level of data granularity, transmission and distribution system operators should be able to use data from dedicated metering devices for the observability and settlement of flexibility services such as demand response and energy storage. Enabling the use of data from dedicated metering devices for observability and settlement should facilitate the active participation of the consumers in the market and the development of their demand response. The use of data from these dedicated metering devices should be accompanied by quality requirements relating to the data.

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participation of the consumers in the market and the development of their demand response. The use of data from these dedicated metering devices should be accompanied by quality requirements relating to the data.	
(18) This Regulation establishes a legal basis for processing of personal data in compliance with Article 6(1)(c) GDPR. Member States should ensure that all personal data protection principles and obligations laid down in the GDPR are met, including on data minimisation. Where the objective of this Directive can be achieved without processing of personal data, providers should rely on anonymised and aggregated data.	
(19) Consumers and suppliers need	IE:

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effective and efficient forward markets to cover their long-term price exposure and decrease the dependence on short-term prices. To ensure that energy customers all over the EU can fully benefit from the advantages of integrated electricity markets and competition across the Union, the functioning of the Union's electricity forward market should be improved via the establishment of regional virtual hubs with a view to overcome the existing market fragmentation and the low liquidity experienced in many bidding zones. Regional virtual hubs should cover multiple bidding zones while ensuring an adequate price correlation. Some bidding zones may not be covered by a virtual hub in terms of contributing to the hub reference price. However, market participants from these bidding zones should still be able to hedge	(Comments): Generally welcome the proposal to establish regional virtual hubs in the forward market. HU (Drafting): <u>Suggestion 1</u> To ensure that energy customers all over the EU can fully benefit from the advantages of integrated electricity markets and competition across the Union, the functioning of the Union's electricity forward market should be improved. Detailed assessment concerning via the establishment of regional virtual hubs should be executed with a view to overcome the existing market fragmentation and the low liquidity experienced in many bidding zones.

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through a hub.	
(20) Virtual hubs should reflect the aggregated price of multiple bidding zones and provide a reference price, which should be used by market operators to offer forward hedging products. To that extent, virtual hubs should not be understood as entities arranging or executing transactions. The regional virtual hubs, by providing a reference price index, should enable the pooling of liquidity and provide better hedging opportunities to market participants.	HU (Drafting): Virtual hubs if established based on the detailed assesment should reflect the aggregated price of multiple bidding zones and provide a reference price...
(21) To enhance the possibilities of market participants for hedging, the role of the single allocation platform established in accordance with Commission Regulation (EU) 2016/1719 should be expanded. The single allocation platform should offer trading of financial	HU (Drafting): The single allocation platform should offer trading of financial long-term transmission rights between the different bidding zones and the regional virtual hubs if established based on the detailed assesment.

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long-term transmission rights between the different bidding zones and the regional virtual hubs. The orders submitted by market participants for financial transmission rights shall be matched by a simultaneous allocation of long term cross zonal capacity. Such matching and allocation should be performed on a regular basis, to ensure enough liquidity and, hence, efficient hedging possibilities to market participants. The long-term transmission rights should be issued with frequent maturities (ranging from month ahead to at least three years ahead), in order to be aligned with the typical hedging time horizon of market participants. The single allocation platform should be subject to monitoring and enforcement to ensure that it performs its tasks properly.	
(22) Network tariffs should incentivise	

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transmission and distribution system operators to use flexibility services through further developing innovative solutions to optimise the existing grid and to procure flexibility services, in particular demand response or storage. For this purpose, network tariffs should be designed so as to take into account the operational and capital expenditures of system operators or an efficient combination of both so that they can operate the electricity system cost-efficiently. This would further contribute to integrating renewables at the least cost for the electricity system and enable final customers to value their flexibility solutions.	
(23) Offshore renewable energy sources, such as offshore wind, ocean energy and floating photovoltaic, will play an instrumental role in building a power system	IE: (Drafting): (23) Offshore renewable energy sources, such as offshore wind, ocean energy and floating photovoltaic, will play an instrumental role in building a power system largely based on

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largely based on renewables and in ensuring climate neutrality by 2050. There are, however, substantial obstacles to their wider and efficient deployment preventing the massive scale up needed to achieve those objectives. Similar obstacles could arise for other offshore technologies in the future. These obstacles include investment risks associated with the unique topographical situation of offshore hybrid projects connected to more than one market. In order to reduce investment risk for these offshore project developers and to ensure that the projects in an offshore bidding zone have full market access to the surrounding markets, transmission system operators should guarantee access of the offshore project to the capacity of the respective hybrid interconnector for all market time units. If the available transmission capacities are	renewables and in ensuring climate neutrality by 2050. There are, however, substantial obstacles to their wider and efficient deployment preventing the massive scale up needed to achieve those objectives. Similar obstacles could arise for other offshore technologies in the future. These obstacles include investment risks associated with the unique topographical situation of offshore hybrid projects connected to more than one market. In order to reduce investment risk for these offshore project developers and to ensure that the projects in an offshore bidding zone have full market access to the surrounding markets, transmission system operators should guarantee access of the offshore project to the capacity of the respective hybrid interconnector for all market time units. If the available transmission capacities are reduced to the extent that the full amount of electricity generation that the offshore project would have otherwise been able to export cannot be delivered to the market, the transmission system operator or operators responsible for the need to limit the capacity should, in future, be enabled to reduce the limitations through additional investment over time. MT: (Comments): MT would like to seek more clarity on the details and conditions from the CION highlighted in this statement: <i>“The details, including the conditions under which the measure may expire, are intended to be defined in an implementing Regulation”</i>

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reduced to the extent that the full amount of electricity generation that the offshore project would have otherwise been able to export cannot be delivered to the market, the transmission system operator or operators responsible for the need to limit the capacity should, in future, be enabled to compensate the offshore project operator commensurately using congestion income. This compensation should only be related to the production capability available to the market, which may be weather dependent and excludes the outage and maintenance operations of the offshore project. The details, including the conditions under which the measure may expire, are intended to be defined in an implementing Regulation.	
(24) In the day-ahead wholesale market, the power plants with lower marginal costs	

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are dispatched first, but the price received by all market participants is set by the last plant needed to cover the demand, which is the plant with the highest marginal costs, when the markets clear. In this context, the energy crisis has shown that a surge in the price of gas and hard coal can translate into exceptional and lasting increases of the prices at which the gas and coal-fired generation facilities bid in the day-ahead wholesale market. That in turn has led to exceptionally high prices in the day-ahead market across the Union, as gas and coal-fired generation facilities are often the plants with the highest marginal costs needed to meet the demand for electricity.	
(25) Given the role of the price in the day-ahead market as a reference for the price in other wholesale electricity markets, and the	

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fact that all market participants receive the clearing price, the technologies with significantly lower marginal costs have consistently recorded high revenues.	
(26) To reach the Union's decarbonisation targets and the objectives set out in REPowerEU to become more energy independent, the Union needs to accelerate the deployment of renewables at a much faster pace. In view of the investment needs required to achieve these goals, the market should ensure that a long-term price signal is established.	BE: (Comments): Could you please clarify what is meant by long-term price signal ? Does this include only PPAs ? MT: (Comments): Malta fully agree that a long-term price signal (through PPAs & CfDs) is required to accelerate the deployment of large-scale RES, which in the context of Malta relates mainly relates to offshore RES investments.
(27) In this framework, Member States should strive to create the right market conditions for long-term market-based instruments, such as power purchase	IE: (Comments): Reading (27), where they use the term PPAs they must mean what would typically be called

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agreements ('PPAs'). PPAs are bilateral purchase agreements between producers and buyers of electricity. They provide long-term price stability for the customer and the necessary certainty for the producer to take the investment decision. Nevertheless, only a handful of Member States have active PPA markets and buyers are typically limited to large companies, not least because PPAs face a set of barriers, in particular the difficulty to cover the risk of payment default from the buyer in these long-term agreements. Member States should take into consideration the need to create a dynamic PPA market when setting the policies to achieve the energy decarbonisation objectives set out in their integrated national energy and climate plans.	"Corporate PPAs" in Ireland. IE welcomes the proposal on Power Purchase Agreements, however it is critical that such agreements provide for additionality, avoid greenwashing and do not increase costs to consumer segments who lack that capacity to contract through a PPA. PPAs should be encouraged and facilitated through policy and/or in the design of CFD schemes where it is clear that they will lower overall costs to all consumers and provide a system benefit taking into account locational criteria/network reinforcements and flexibility needs required to support the renewable assets. MT: (Drafting): In this framework, Member States should strive to create the right market conditions for long-term market-based instruments, such as power purchase agreements ('PPAs'). PPAs are bilateral purchase agreements between producers and buyers of electricity. They provide long-term price stability for the customer and the necessary certainty for the producer to take the investment decision. Nevertheless, only a handful of Member States have active PPA markets and buyers are typically limited to large companies, not least because PPAs face a set of barriers, in particular the difficulty to cover the risk of payment default from the buyer in these

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	long-term agreements. Member States should take into consideration the need to create a dynamic PPA market when setting the policies to achieve the energy decarbonisation objectives set out in their integrated national energy and climate plans: and explore the importation of renewable electricity through PPAs from non EU third countries that have massive solar energy potential to exploit. MT: (Comments): Malta suggests that this framework includes the EU's support to MS extending their network to non EU third countries.
(28) According to Article 15(8) of Directive (EU) 2018/2001 of the European Parliament and of the Council, Member States are to assess the regulatory and administrative barriers to long-term renewables PPAs, and shall remove unjustified barriers to, and promote the uptake of, such agreements. In	MT: (Comments): The recital refers to the fact that “<i>Member States should not provide support to PPAs that purchase generation from fossil fuels.</i>” Malta would like to question how this tallies with current power purchase agreements in place for plants fuelled by natural gas?

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addition, Member States are to describe policies and measures facilitating the uptake of renewables PPAs in their integrated national energy and climate plans. Without prejudice to that obligation to report on the regulatory context affecting the PPA market, Member States should ensure that instruments to reduce the financial risks associated to the buyer defaulting on its long-term payment obligations in the framework of PPAs are accessible to companies that face entry barriers to the PPA market and are not in financial difficulty in line with Articles 107 and 108 TFEU. Member States could decide to set up a guarantee scheme at market prices. Member States should include provisions to avoid lowering the liquidity in the electricity markets, such as by using financial PPAs. Member States should not provide support to PPAs that purchase	

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generation from fossil fuels. While the default approach should be non-discrimination between consumers, Member States could decide to target these instruments to specific categories of consumers, applying objective and non-discriminatory criteria. In this framework, Member States should take into account the potential role of instruments provided at Union level, for instance by the European Investment Bank ('EIB').	
(29) Member States have at their disposal several instruments to support the development of PPA markets when designing and allocating public support. Allowing renewable energy project developers participating in a public support tender to reserve a share of the generation for sale through a PPA would contribute to nurture and grow PPA markets. In addition, as part	ES: (Drafting): (29) Member States have at their disposal several instruments to support the development of PPA markets when designing and allocating public support. Allowing renewable energy project developers participating in a public support tender to reserve a share of the generation for sale through a PPA would contribute to nurture and grow PPA markets. In addition, as part of these tender evaluation Member States should endeavour to apply criteria to incentivise the access to the PPA market for actors that face entry barriers, such as small and medium-sized enterprises ('SMEs'), giving preference to bidders presenting a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face difficulties to access the PPA market.

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of these tender evaluation Member States should endeavour to apply criteria to incentivise the access to the PPA market for actors that face entry barriers, such as small and medium-sized enterprises ('SMEs'), giving preference to bidders presenting a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face difficulties to access the PPA market.	MT: (Comments):
(30) Where Member States decide to support publicly financed new investments ("direct price support schemes") in low carbon, non-fossil fuel electricity generation to achieve the Union's decarbonisation objectives, those schemes should be structured by way of two-way contracts for difference such as to include, in addition to a	NL: (Drafting): (30) Where Member States decide to support publicly financed new investments ("direct price support schemes") in low carbon, non-fossil fuel electricity generation to achieve the Union's decarbonisation objectives, those schemes should may be structured by way of two-way contracts for difference such as to include, in addition to a revenue guarantee, an upward limitation of the market revenues of the generation assets concerned. New investments for the generation of electricity should include investments in new power generating facilities,

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revenue guarantee, an upward limitation of the market revenues of the generation assets concerned. New investments for the generation of electricity should include investments in new power generating facilities, investments aimed at repowering existing power generating facilities, investments aimed at extending existing power generating facilities or at prolonging their lifetime.	investments aimed at repowering existing power generating facilities, investments aimed at extending existing power generating facilities or at prolonging their lifetime. NL: (Comments): NL proposes to make application of two-sided CfD's optional. Although 2-sided CfD's are a useful instrument, limiting Member States' possibilities to give support in other ways takes away necessary flexibility to adapt support schemes to (changing) national circumstances. NL recognises that limiting excess profits can be useful, from the perspective of spending public money efficiently. We agree on the end (efficiency) but would like to advocate for flexibility towards the means (2-sided CfDs, 1-sided and all shades of grey in between). In this context, we would also like to highlight the importance of maintaining important market incentives for production capacity to respond to changes in supply and demand. PL: (Comments): This should not preclude the possibility to apply other support schemes to new investments, irrespectively of direct price support schemes. Some investments, especially those characterised by high upfront capital costs, like nuclear, may require instruments or mechanisms granted by a Member States other than direct price support, including (but not restricted to) investment aid, tax exemptions or reductions, tax refunds or state guarantees. ES: (Drafting): (30) Where Member States decide to support publicly financed new investments ("direct

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	price support schemes”) in low carbon, non-fossil fuel electricity generation to achieve the Union’s decarbonisation objectives, those schemes should be structured by way of two-way contracts for difference such as to include, in addition to a revenue guarantee, an upward limitation of the market revenues of the generation assets concerned. New investments for the generation of electricity should include investments in new power generating facilities, investments aimed at repowering existing power generating facilities, investments aimed at extending existing power generating facilities or at prolonging their lifetime. Nevertheless, Member States may establish also a two-way contract for difference at a regulated strike price for existing non-contestable technologies. Indeed, some technologies are non-contestable in several Member States and, in such cases, existing generators are in a position to obtain supra-competitive profits, as rents cannot be competed away by new entry. In such cases, the European legal framework should allow Member States to sign two-way contracts for differences with those generators at a regulated strike price. IE: (Comments): • IE welcomes the emphasis on CFDs for new investment in renewables and ensuring that households and businesses receive the benefit of low cost wind and solar energy and making consumer independent of short term fossil fuel markets that drive electricity wholesale pricing. MT: (Comments): Malta agrees on the proposed structure of contracts for difference (CfDs) for new RES investments. Whilst these types of contracts provide stability and predictability to revenue

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	streams for the investors, the consumer is also protected from large variations in costs and even the State is protected against paying increased subsidies when energy costs are high.
(31) Such two-way contracts for difference would ensure that revenues of producers stemming from new investments in electricity generation which benefit from public support become more independent from the volatile prices of fossil fuels-based generation which typically sets the price in the day-ahead market.	ES: (Drafting): (31) Such two-way contracts for difference would ensure that revenues of producers stemming from new investments in electricity generation or existing plants which benefit from public support become more independent from the volatile prices of fossil fuels-based generation which typically sets the price in the day-ahead market.
(32) However, to the extent that the limitation to set out direct price support schemes in the form of two-way contracts for difference narrows down the types of direct price support schemes that Member States can adopt as regards renewable energy sources, it should be limited to low carbon,	BE: (Comments): Can the COM clarify the first sentence PL: (Comments): Some investments, especially those characterised by high upfront capital costs, like nuclear

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non-fossil fuel technologies, with low and stable operational costs and to technologies which typically do not provide flexibility to the electricity system, while excluding technologies that are at early stages of their market deployment. This is necessary to ensure that the economic viability of generation technologies with high marginal costs is not jeopardised and to maintain the incentives of the technologies which can offer flexibility to the electricity system to bid in the electricity market based on their opportunity costs. In addition, the limitation to set out direct price support schemes in the form of two-way contracts for difference should not apply to emerging technologies for which other types of direct price support schemes may be better placed to incentivise their uptake. The limitation should be without prejudice to the possible exemption	new build, may require support schemes other than CfDs. Could the Commission clarify whether this obligation does not preclude other forms of support than price support schemes, e.g. state guarantees, loans, equity?

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for small-scale installations and demonstration projects pursuant to Article 4 (3) of (EU) 2018/2001 of the European Parliament and of the Council and consider the specificities of renewable energy communities in accordance with Article 22 (7) of that Directive.	
(33) In view of the need to provide regulatory certainty of producers, the obligation for Member States to apply direct price support schemes for the production of electricity in the form of two-way contracts for difference should apply only to new investments for the generation of electricity from the sources specified in the recital above.	
(34) Thanks to the upward limitation of the market revenues direct price support	BE:

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schemes in the form of two-way contracts for difference should provide an additional source of revenues for Member States in periods of high energy prices. To further mitigate the impact of high electricity prices on the energy bills of consumers, Member States should ensure that the revenues collected from producers subject to direct price support schemes in the form of two-way contracts for difference are passed on to all final electricity customers, including households, SMEs and industrial consumers, based on their consumption. The redistribution of revenues should be done in a way that ensures that consumers are still to some extent exposed to the price signal, so that they reduce their consumption when the prices are high, or shift it to periods of lower prices (which are typically periods with a higher share of RES production). Member	(Comments): Why is it proposed that the revenues collected by the MS in this framework can not be used in a targeted, dedicated way? What about targeting vulnerable customers? For energy efficiency measures? NL: (Drafting): (34) Thanks to the upward limitation of the market revenues direct price support schemes in the form of two-way contracts for difference should provide an additional source of revenues for Member States in periods of high energy prices. To further mitigate the impact of high electricity prices on the energy bills of consumers, Member States may should ensure that the revenues collected from producers subject to direct price support schemes in the form of two-way contracts for difference are passed on to all final electricity customers, including households, SMEs and industrial consumers, based on their consumption. The redistribution of revenues should be done in a way that ensures that consumers are still to some extent exposed to the price signal, so that they reduce their consumption when the prices are high, or shift it to periods of lower prices (which are typically periods with a higher share of RES production). Member States should ensure that the level playing-field and competition between the different suppliers is not affected by the redistribution of revenues to the final electricity consumers. NL:

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States should ensure that the level playing-field and competition between the different suppliers is not affected by the redistribution of revenues to the final electricity consumers.	(Comments): Member states should have flexibility on how to use possible additional revenues, for example strengthening grids, investing in new renewables or other uses for the revenues. FR: (Drafting): (34) Thanks to the upward limitation of the market revenues direct price support schemes in the form of two-way contracts for difference should provide an additional source of revenues for Member States in periods of high energy prices. To further mitigate the impact of high electricity prices on the energy bills of consumers, Member States should ensure that the revenues collected from producers subject to direct price support schemes in the form of two-way contracts for difference or to other mechanisms collecting the so-called inframarginal revenues of the electricity producers are passed on to all final electricity customers, including households, SMEs and industrial consumers, based on their consumption. The redistribution of revenues should be done in a way that ensures that consumers are still to some extent exposed to the price signal, so that they reduce their consumption when the prices are high, or shift it to periods of lower prices (which are typically periods with a higher share of RES production). Member States should ensure that the level playing-field and competition between the different suppliers is not affected by the redistribution of revenues to the final electricity consumers. FR:

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	(Comments): The flat redistribution approach could be as well imposed on other inframarginal rent redistribution schemes designed by Member-States, to ensure that they similarly limit the impact on the Single Market.
(35) Furthermore, Member States should ensure that the direct price support schemes, irrespective of their form, do not undermine the efficient, competitive and liquid functioning of the electricity markets, preserving the incentives of producers to react to market signals, including stop generating when electricity prices are below their operational costs, and of final customers to reduce consumption when electricity prices are high. Member States should ensure that support schemes do not constitute a barrier for the development of commercial contracts such as PPAs.	IE: (Comments): It would be ideal if we could get a change here to at least mean that if the price goes negative, REFIT contracts don't pay out It could be considered a retrospective change but the current contracts don't align with this obligation. The text could be read as a prompt to change these contracts

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(36) Thus, two-way contracts for difference and power purchase agreements play complementary roles in advancing the energy transition and bringing the benefits of renewables and low carbon energy to consumers. Subject to the requirements set out in the present Regulation, Member States should be free to decide which instruments they use to achieve their decarbonisation objectives. Through PPAs, private investors contribute to additional renewable and low carbon energy deployment while locking low and stable electricity prices over the long-term. Likewise, through two-way contracts for difference, the same objective is achieved by public entities on behalf of consumers. Both instruments are necessary to achieve the Union's decarbonisation targets through renewable and low carbon energy	

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deployment, while bringing forward the benefits of low-cost electricity generation for consumers.	
(37) The accelerated deployment of renewables necessitates a growing availability of flexibility solutions to ensure their integration to the grid and to enable the electricity system and grid to adjust to the variability of electricity generation and consumption across different time horizons. Regulatory authorities should periodically assess the need for flexibility in the electricity system based on the input of transmission and distribution system operators. The assessment of the flexibility needs of the electricity system should take into account all existing and planned investments (including existing assets that are not yet connected to the grid) on sources of flexibility such as	LT: (Drafting): (37) The accelerated deployment of renewables necessitates a growing availability of flexibility solutions to ensure their integration to the grid and to enable the electricity system and grid to adjust to the variability of electricity generation and consumption across different time horizons. Regulatory authorities should periodically assess the need for flexibility in the electricity system based on the input of transmission and distribution system operators. The assessment of the flexibility needs of the electricity system should take into account all existing and planned investments (including existing assets that are not yet connected to the grid) on sources of flexibility such as flexible electricity generation, interconnectors, demand side response, energy storage or the production of renewable fuels, in view of the need to decarbonise the energy system. On this basis, Member States should define a national objective for non-fossil flexibility such as demand side response and storage which should also be reflected in their integrated national energy and climate plans. LT:

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flexible electricity generation, interconnectors, demand side response, energy storage or the production of renewable fuels, in view of the need to decarbonise the energy system. On this basis, Member States should define a national objective for non-fossil flexibility such as demand side response and storage which should also be reflected in their integrated national energy and climate plans.	(Comments): If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, it should be explained or defined. The term ‘demand response’ should be used consistently. PT: (Comments): We recommend that the assessment of flexibility needs be duly framed in the European Resource Adequacy Assessment (ERAA) methodology (as is already the case with capacity mechanisms), in order to avoid overlapping studies and ensure consistency of results. Please see change proposal in Article 19c. DK: (Comments):

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(38) To achieve the national objective for non-fossil flexibility such as demand side response and storage investment needs, Member States can design or redesign capacity mechanisms in order to create a green and flexible capacity mechanism. Member States that apply a capacity mechanism in line with the existing rules should promote the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design.	LT: (Drafting): (38) To achieve the national objective for non-fossil flexibility such as demand side response and storage investment needs, Member States can design or redesign capacity mechanisms in order to create a green and flexible capacity mechanism. Member States that apply a capacity mechanism in line with the existing rules should promote the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design. LT: (Comments): If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, it should be explained or defined. The term ‘demand response’ should be used consistently. PL: (Drafting): (38) To achieve the national objective for non-fossil flexibility such as demand side response and storage investment needs, Member States can design or redesign capacity mechanisms in order to provide incentives for deployment of stable and flexible generation

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	capacities, energy storage or DSR solutions, as well as to reflect the current circumstances, electricity system needs and security of supply risks. create a green and flexible capacity mechanism. Member States that apply a capacity mechanism in line with the existing rules should promote the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design. PL: (Comments): Member States should have more flexibility in designing their capacity mechanisms which play an increasingly important role in supporting the transition towards a system with a growing share of intermittent renewables, while ensuring adequate capacity and avoiding security of supply risks (recital related to proposed amendment in Article 22 of Regulation 2019/943). ES: (Drafting): (38) To achieve the national objective for non-fossil flexibility such as demand side response and storage investment needs, Member States can design or redesign capacity mechanisms in order to create a green and flexible capacity mechanism. When designing a new capacity mechanism that meets this criteria, some form of flexibility shall be introduced at the european approval procedure, as current regulation has reveled to be detrimental to ensure security of supply at the lowest possible cost.

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	ES: (Comments): Nevertheless, the economically efficient way to boost new investment in flexible capacity, as well as ensuring security of supply, is by revisiting articles 21 and 22 of current Electricity Regulation. IE: (Drafting): (38) To achieve the national objective for non-fossil flexibility such as demand side response and storage investment needs, Member States can design or redesign capacity mechanisms in order to create a green and flexible capacity mechanism. Member States that apply a capacity mechanism in line with more flexible state-aid rules to be developed later by the Commission, should promote the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design. IE: (Comments): Are they using a definition of “demand side response” that excludes behind-the-meter fossil fuel generation? DK:

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	(Drafting):
(39) To support environmental protection objectives the CO2 emissions' limit, set out in Article 22(4) of Regulation (EU) 2019/943 of the European Parliament and of the Council, should be seen as an upper limit. Therefore, Member States could set technical performance standards and CO2 emissions' limits that restrict participation in capacity mechanisms to flexible, fossil-free technologies in full alignment with the Guidelines on State aid for climate, environmental protection and energy¹¹ which encourage Member States to introduce green	PL: (Drafting): (39) — To support environmental protection objectives the CO2 emissions' limit, set out in Article 22(4) of Regulation (EU) 2019/943 of the European Parliament and of the Council, should be seen as an upper limit. Therefore, Member States could set technical performance standards and CO2 emissions' limits that restrict participation in capacity mechanisms to flexible, fossil-free technologies in full alignment with the Guidelines on State aid for climate, environmental protection and energy¹² which encourage Member States to introduce green criteria in capacity mechanisms.

¹¹ Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022 (OJ C 80, 18.2.2022, p. 1).

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criteria in capacity mechanisms.	
(40) In addition, if Member States do not apply a capacity mechanism or if the additional criteria or features in the design of their capacity mechanism are insufficient to achieve national objective for demand response and storage investment needs they could apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.	LT: (Drafting): (40) In addition, if Member States do not apply a capacity mechanism or if the additional criteria or features in the design of their capacity mechanism are insufficient to achieve national objective for demand response and storage investment needs they could apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage. LT: (Comments): If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, it should be explained or defined. The term ‘demand response’ should be used consistently. IE: (Comments): This could, could be read as a MS function - i.e. a RESS for flexibility ?

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(41) The connection of new generation and demand installations, in particular renewable energy plants, often faces delays in grid connection procedures. One of the reasons for such delays is the lack of available grid capacity at the location chosen by the investor, which implies the need for grid extensions or reinforcements to connect the installations to the system in a safe manner. A new requirement for electricity system operators, both at transmission and distribution levels, to publish and update information on the grid capacity available in their areas of operation would contribute to decision-making by investors on the basis of information of grid capacity availability within the system and thus to the required acceleration in the deployment of renewable energy.	

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(42) Furthermore, to tackle the problem of lengthy reply times on requests for connection to the grid, transmission and distribution system operators should provide clear and transparent information to system users about the status and treatment of their connection requests. Transmission and distribution system operators should endeavour to provide such information within a period of three months from the submission of the request.	
(43) During the energy crisis, consumers have been exposed to extremely volatile wholesale energy prices and had limited opportunities to engage in the energy market. Consequently, many households, have been facing difficulties when paying their bills.	

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Vulnerable consumers and the energy poor are the hardest hit¹³, but middle-income households have also been exposed to such difficulties. It is therefore important to update consumer rights and protections, allowing consumers to benefit from the energy transition, decouple their electricity bills from short term price movements on energy markets and rebalance the risk between suppliers and consumers.	
(44) Consumers should have access to a wide range of offers so that they can choose a contract according to their needs. However, suppliers have reduced their offers, fixed-price contracts have become scarce, and the choice of offers has become limited.	

¹³ Particular groups are more at risk of being affected by energy poverty or more susceptible to the adverse impacts of energy poverty, such as women, persons with disabilities, older persons, children, and persons with a minority racial or ethnic background.

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Consumers should always have the possibility to opt for an affordable fixed price and fixed term contract and suppliers should not unilaterally modify the terms and conditions before such contract expires.	
(45) When suppliers' do not ensure that their electricity portfolio is sufficiently hedged changes in wholesale electricity prices can leave them financially at risk and, result in their failure, passing on costs to consumers and other network users. Hence, it should be ensured that suppliers are appropriately hedged when offering fixed price contracts. An appropriate hedging strategy should take into account the suppliers' access to its own generation and its capitalisation as well as its exposure to changes in wholesale market prices.	

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(46) Consumers should be able to choose the supplier which offers them the price and service which best suits their needs. Advances in metering and sub-metering technology combined with information and communication technology mean that it is now technically possible to have multiple suppliers for a single premises. If they so wish, customers should be able to use these possibilities to choose a separate supplier notably for electricity to power appliances such as heat pumps or electric vehicles which have a particularly high consumption or which also have the capability to shift their electricity consumption automatically in response to price signals. Moreover, with fast-responding dedicated metering devices which are attached to or embedded in appliances with flexible, controllable loads, final customers can participate in other	

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incentive-based demand response schemes that provide flexibility services on the electricity market and to transmission and distribution system operators. Overall, such arrangements should contribute to the increased uptake of demand response and to consumer empowerment allowing them to have more control over their energy use and bills, while providing to the electricity system additional flexibility in order to cope with demand and supply fluctuations.	
(47) Due to the increasing complexity of energy offers and different marketing practices, consumers have often difficulties to fully understand what they sign up to. In particular, there is a lack of clarity on how the price is set, the conditions for the renewal of the contract, the consequences of terminating a contract or the reasons for	

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changing conditions by the supplier. Therefore, the key information on energy offers should be provided to consumers by suppliers or market participants engaged in aggregation in a short and easily understandable manner prior to signing the contract.	
(48) To ensure continuity of supply for consumers in case of supplier failure, Member States should be obliged to appoint suppliers of last resort which may be treated as the provider of universal service. That supplier might be the sales division of a vertically integrated undertaking which also performs distribution functions, provided that it meets the unbundling requirements of Article 35 of Directive (EU) 2019/944 of the European Parliament and of the Council. However, this does not imply an obligation of	NL: (Drafting): (48) To ensure continuity of supply for consumers in case of supplier failure, Member States shall implement a regime to ensure the continuity of supply for household consumers. If appointing suppliers of last resort, beforehand or at the moment that the issue arises, they may be treated as the provider of universal service. That supplier might be the sales division of a vertically integrated undertaking which also performs distribution functions, provided that it meets the unbundling requirements of Article 35 of Directive (EU) 2019/944 of the European Parliament and of the Council. However, this does not imply an obligation of Member States to supply at a certain fixed minimum price. NL:

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Member States to supply at a certain fixed minimum price.	(Comments): Important to provide room for Member States to implement the best suitable regime to provide continuity to consumers. To avoid unnecessary infringement on free market dynamics we propose to specify appointing suppliers of last resort can be done at the moment the issue arises. It is important for Member States to remain capable to find the best and most fair solution, with least market interference.
(49) Energy sharing can create resilience against the effects of high and volatile wholesale market prices on consumers' energy bills, empowers a wider group of consumers that do not otherwise have the option of becoming an active customer due to financial or spatial constraints, such as energy poor and vulnerable consumers, and leads to increased uptake of renewable energy by mobilising additional private capital investments and diversifying	

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remuneration pathways. With the integration of appropriate price signals and storage facilities, electricity sharing can help lay the foundation to help tap into the flexibility potential of smaller consumers.	
(50) Active customers that own, lease or rent a storage or generation facility should have the right to share excess production and empower other consumers to become active, or to share the renewable energy generated or stored by jointly leased, rented or owned facilities, either directly or through a third-party facilitator. Energy sharing arrangement are either based on private contractual agreement between active customers or organised through a legal entity. A legal entity that incorporates the criteria of a renewable energy community as defined in Directive (EU) 2018/2001 of the	NL: (Drafting): (50) Active customers that own, lease or rent a storage or generation facility should have the right to share excess production and empower other consumers to become active, or to share the renewable energy generated or stored by jointly leased, rented or owned facilities, either directly or through a third-party facilitator. Energy sharing arrangement are either based on private contractual agreement between active customers or organised through a legal entity. A legal entity that incorporates the criteria of a renewable energy community as defined in Directive (EU) 2018/2001 of the European Parliament and of the Council or a citizen energy community as defined in Directive (EU) 2019/944 of the European Parliament and of the Council can share with their members electricity generated from facilities they have in full ownership. The protection and empowerment framework for energy sharing should may pay particular attention to energy poor and vulnerable consumers.

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European Parliament and of the Council or a citizen energy community as defined in Directive (EU) 2019/944 of the European Parliament and of the Council can share with their members electricity generated from facilities they have in full ownership. The protection and empowerment framework for energy sharing should pay particular attention to energy poor and vulnerable consumers.	
(51) Energy sharing operationalises the collective consumption of self-generated or stored electricity injected into the grid by more than one jointly acting active customers. Member States should put in place the appropriate IT infrastructure to allow for the administrative matching within a certain timeframe of consumption with self-generated or stored renewable energy for the	

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purpose of calculating the energy component of the energy bill. The output of these facilities should be distributed among the aggregated consumer load profiles based on static, variable or dynamic calculation methods that can be pre-defined or agreed upon by the active customers.	
(52) Vulnerable customers should be adequately protected from electricity disconnections and should, as well, not be put in a position that forces them to disconnect. The role of suppliers and all relevant national authorities to identify appropriate measures, in both the short and the long-term, which should be made available to vulnerable customers to manage their energy use and costs remain essential, including by means of close cooperation with social security systems.	

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(53) Public interventions in price setting for the supply of electricity constitute, in principle, a market-distortive measure. Such interventions may therefore only be carried out as public service obligations and are subject to specific conditions. Under this Directive regulated prices are possible for energy poor and vulnerable households, including below costs, and, as a transition measure, for households and micro-enterprises. In times of crisis, when wholesale and retail electricity prices increase significantly, and this is having a negative impact on the wider economy, Member States should be allowed to extend, temporarily, the application of regulated prices also to SMEs. For both households and SMEs, Member States should be temporarily allowed to set regulated prices below costs as	ES: (Drafting): (53) Public interventions in price setting for the supply of electricity constitute, in principle, a market-distortive measure. Such interventions may therefore only be carried out as public service obligations and are subject to specific conditions. Under this Directive regulated prices are possible for energy poor and vulnerable households, including below costs, and, as a transition measure, for households and micro-enterprises. In times of crisis, when wholesale and retail electricity prices increase significantly, and this is having a negative impact on the wider economy, Member States should be allowed to extend, temporarily, the application of regulated prices also to SMEs. For both households and SMEs, Member States should be temporarily allowed to set regulated prices below costs as long as this does not create distortion between suppliers and suppliers are compensated for the costs of supplying below cost. However, it needs to be ensured that such price regulation is targeted and does not create incentives to increase consumption. Hence, such price regulation should be limited to 80% of median household consumption for households, and 70% of the previous year's consumption for SMEs. The Commission should determine when such an electricity price crisis exists and consequently when this possibility becomes applicable. The Commission should also specify the validity of that determination, during which the temporary extension of regulated prices

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Commission proposal	Drafting Suggestions Comments
long as this does not create distortion between suppliers and suppliers are compensated for the costs of supplying below cost. However, it needs to be ensured that such price regulation is targeted and does not create incentives to increase consumption. Hence, such price regulation should be limited to 80% of median household consumption for households, and 70% of the previous year's consumption for SMEs. The Commission should determine when such an electricity price crisis exists and consequently when this possibility becomes applicable. The Commission should also specify the validity of that determination, during which the temporary extension of regulated prices applies, which may be for up to one year. To the extent that any of the measures envisaged by the present Regulation constitute State aid, the provisions concerning such measures	applies, which may be for up to one year. To the extent that any of the measures envisaged by the present Regulation constitute State aid, the provisions concerning such measures are without prejudice to the application of Articles 107 and 108 TFEU. In any case, the declaration of such regional or Union-wide electricity price crisis shall ensure a level playing field across all Member States affected the decision so that the internal market is not unduly distorted. ES: (Comments): The current proposal does not provide any solution to excessive prices, other than subsidising retail tariffs. It is unfair and inefficient to ask taxpayers to finance measures issued at reducing high retail electricity prices, when excessive profits are actually obtained by non-contestable technologies. We must effectively tackle the windfall profits that excessive prices produce, damaging the economy of domestic and industrial consumers, rather than relying on the size of Member State's budget. If not by reducing windfall profits, other tools should be issued at Union-wide in order no to create excessive market distortions, such as a common fund to finance retail price interventions. PT: (Drafting):

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Commission proposal	Drafting Suggestions Comments
are without prejudice to the application of Articles 107 and 108 TFEU.	(53) Public interventions in price setting for the supply of electricity constitute, in principle, a market-distortive measure. In times of crisis, when wholesale and retail electricity prices increase significantly, and this is having a negative impact on the wider economy, Member States Such may therefore only be carried out as public service obligations and are subject to specific conditions. Under this Directive regulated prices are possible for energy poor and vulnerable households, including below costs, and, as a transition measure, for households and micro-enterprises and should be allowed to extend, temporarily, the application of regulated prices also to SMEs. For both households and SMEs, Member States should be temporarily allowed to set regulated prices below costs as long as this does not create distortion between suppliers and suppliers are compensated for the costs of supplying below cost. However, it needs to be ensured that such price regulation is targeted and does not create incentives to increase consumption. Hence, such price regulation should be limited to 80% of median household consumption for households, and 70% of the previous year's consumption for SMEs. The Commission should determine when such an electricity price crisis exists and consequently when this possibility becomes applicable. The Commission should also specify the validity of that determination, during which the temporary extension of regulated prices applies, which may be for up to one year. To the extent that any of the measures envisaged by the present Regulation constitute State aid, the provisions concerning such measures are without prejudice to the application of Articles 107 and 108 TFEU. PT:

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Commission proposal	Drafting Suggestions Comments
	(Comments): Public intervention only in crisis situation FR: (Drafting): (53) Public interventions in price setting for the supply of electricity constitute, in principle, a market-distortive measure. Such interventions may therefore only be carried out as public service obligations and are subject to specific conditions. Under this Directive regulated prices are possible for energy poor and vulnerable households, including below costs, and, as a transition measure, for households and micro-enterprises. In times of crisis, when wholesale and retail electricity prices increase significantly, and this is having a negative impact on the wider economy, Member States should be allowed to extend, temporarily, the application of regulated prices also to SMEs. For both households and SMEs, Member States should be temporarily allowed to set regulated prices below costs or to lower the electricity price for consumers as long as this does not create distortion between suppliers and suppliers are compensated for the costs of supplying below cost. However, it needs to be ensured that such price regulation is targeted and does not create incentives to increase consumption. Hence, such price regulation should be limited to 80% of median household consumption for households, and 70% of the previous year's consumption for SMEs. The Commission should determine when such an electricity price crisis exists and consequently when this possibility

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	becomes applicable. The Commission should also specify the validity of that determination, during which the temporary extension of regulated prices applies, which may be for up to one year. To the extent that any of the measures envisaged by the present Regulation constitute State aid, the provisions concerning such measures are without prejudice to the application of Articles 107 and 108 TFEU. FR: (Comments): In our opinion, it is more efficient, to incentivize suppliers to optimize their costs and to keep a competition to make a payment to them based on the consumption of their consumers rather than to compensate them for selling at a regulated price set below costs.
(54) The measures envisaged by the present Regulation are also without prejudice to the application of Directive 2014/65/EU, Regulation (EU) 2016/1011 and Regulation (EU) 648/2012.	

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(55) Regulation (EU) 2019/942 of the European Parliament and of the Council, Regulation (EU) 2019/943 of the European Parliament and of the Council, Directive (EU) 2019/944 of the European Parliament and of the Council and Directive (EU) 2018/2001 of the European Parliament and of the Council should be amended accordingly.	
(56) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.	

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HAS ADOPTED THIS REGULATION:	
Article 1	
Amendments to Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity	
Regulation (EU) 2019/943 is amended as follows:	
(1) Article 1 is amended as follows:	
	BE: (Drafting): [a0] point (a) is amended as follows: (a) set the basis for an efficient achievement of the objectives of the Energy Union and in

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	particular the climate and energy framework for 2030 by enabling market signals to be delivered for increased efficiency, higher share of renewable energy sources, security of supply, flexibility, sustainability, decarbonisation and innovation; where needed complemented by efficient state aid procedures; BE: (Comments): We propose to make a slight adaptation to art1 (a) of the existing regulation All objectives of article 1 refer to the market (or here “market signals”), whereas the Regulation also foresees rules for aid measures complementary to the market (adequacy through CRM’s, and now also flexibility through flexibility support).
[a] point (b) is replaced by the following:	
‘(b) set fundamental principles for well-functioning, integrated electricity markets, which allow all resource providers and electricity customers non-discriminatory market access, enable the development of forward electricity markets to allow suppliers	BE: (Drafting): ‘(b) set fundamental principles for well-functioning, integrated electricity markets, which allow all resource providers and electricity customers non-discriminatory market access, enable the development of forward electricity markets to allow suppliers and consumers to hedge or protect themselves against the risk of future volatility in electricity prices, empower consumers, ensure competitiveness on the global market, enhance flexibility and security of

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and consumers to hedge or protect themselves against the risk of future volatility in electricity prices, empower consumers, ensure competitiveness on the global market, enhance flexibility through demand response, energy storage and other non-fossil flexibility solutions, ensure energy efficiency, facilitate aggregation of distributed demand and supply, and enable market and sectoral integration and market-based remuneration of electricity generated from renewable sources;'	supply through demand response, energy storage and other non-fossil flexibility solutions, ensure energy efficiency, facilitate aggregation of distributed demand and supply, and enable market and sectoral integration and suitable market-based remuneration of electricity generated from renewable sources LU: (Drafting): ‘(b) set fundamental principles for well-functioning, integrated electricity markets, which allow all resource providers and electricity customers non-discriminatory market access, enable the development of forward electricity markets to allow suppliers and consumers to hedge or protect themselves against the risk of future volatility in electricity prices, ensure the protection and empowerment of consumers, ensure competitiveness on the global market, enhance flexibility through demand response, energy storage and other non-fossil flexibility solutions, ensure energy efficiency and savings, facilitate aggregation of distributed demand and supply, and enable market and sectoral integration and market-based remuneration of electricity generated from renewable sources;’ DK: (Comments): We find the additional focus on forward markets positive.
[b] the following point is added:	
‘(e) support long-term investments in	DK:

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renewable energy generation and enable consumers' to make their energy bills less dependent from fluctuations of short-term electricity market prices, in particular fossil fuel prices in the medium to long-term.'	(Drafting): ‘(e) support long-term investments in renewable energy generation <u>that are well-integrated into the electricity markets</u> and enable consumers' to make <u>manage risks in</u> their energy <u>electricity</u> bills less dependent from <u>due to</u> fluctuations of short-term electricity market prices; in particular fossil fuel prices in the medium to long-term.’ DK: (Comments): It is important that the electricity regulation ensures market-friendly support of renewables and avoid schemes that distort short-term and long-term markets. For consumers it is important to handle their risks and not in any case make bill independent of short-term prices.
(2) In Article 2, the following points are added:	
‘(72) ‘peak hour’ means an hour with the highest electricity consumption combined with a low level of electricity generated from renewable energy sources, taking cross-zonal	PL: (Comments): This definition does not seem to include other possible situations, e.g. low level of generation

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exchanges into account;	from sources other than renewables (e.g. unexpected shutdowns of power plants). ES: (Comments): Scrutiny reservation PT: (Drafting): ‘(72) ‘peak hour’ means an hour, within a given day, with the highest electricity consumption; combined with a low level of electricity generated from renewable energy sources, taking cross-zonal exchanges into account; PT: (Comments): In our opinion, this is not the technically correct and widely understood definition of peak hour. Some harmonization may be needed. Definition in Council Regulation (EU) 2022/1854 on emergency intervention to address high energy prices Article 2 <i>(4) ‘peak hours’ means individual hours of the day where, based on the forecasts of transmission system operators and, where applicable, nominated electricity market operators,</i>

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	<i>day-ahead wholesale electricity prices are expected to be the highest, the gross electricity consumption is expected to be the highest or the gross consumption of electricity generated from sources other than renewable sources as referred to in Article 2(1) of Directive (EU) 2018/2001 of the European Parliament and of the Council(7)is expected to be the highest;</i> IE: (Comments): This definition implies it is the hour with highest carbon emissions which isn't the case for us. Would be good to include in the definition an allowance to define peak in relation to carbon intensity rather than MWh demand alone. FR: (Drafting): (72) ‘peak hour’ means an hour with the highest electricity consumption or a high electricity consumption combined with a low level of electricity generated from renewable energy sources, taking cross-zonal exchanges into account; FR: (Comments): Peak hours could be set with regards of the whole consumption and not only consumption neted from renewable energy. This could be defined by TSOs at zonal scale. MT: (Comments):

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	“Peak hour” generally refers to periods of highest electricity consumption only. It is unclear why in this case it is being used in combination with low level of RES electricity production. Further clarification is being requested.
(73) ‘peak shaving’ means the ability of market participants to reduce electricity consumption at peak hours determined by the transmission system operator;	PT: (Drafting): (73) ‘peak shaving’ means the ability of market participants to reduce electricity consumption at peak hours determined by request by the transmission system operator; PT: (Comments): “By” request seems to be more appropriated CZ: (Drafting): (73) ‘peak shaving’ means the ability of market participants to reduce electricity consumption at peak hours determined by the transmission system operator or distribution system operator; CZ: (Comments):

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	In the Czech Republic, similar service is being used also on a DSO level, so there shall be no discrimination against them. MT: (Drafting): (73) ‘peak shaving’ means the ability of market participants to reduce electricity consumption at peak hours determined by the transmission system operator or distribution system operator; MT: (Comments): Currently the definition only refers to TSOs. We propose an extension to DSOs to cover all Member States’ specificities, since Malta does not have a TSO. See also proposed change under Art. 7a.
(74) ‘peak shaving product’ means a market-based product through which market participants can provide peak shaving to the transmission system operators;	BE: (Comments): Peak shaving is a general concept that is also used in other contexts and markets. For example when a consumer wants to lower his power peaks towards the DSO in order to pay a lower distribution tariff or to not exceed his connection capacity. In order to avoid confusion, we suggest to change or specify the name of this definition.

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	PT: (Comments): Is it intended to limit the scope of the definition to the TSO ? The same definitions may apply to the DSO areas. As it stands, the definition corresponds to “demand response” (definition already existing in the Directive) in peak hours. IE: (Comments): See comment above re. 'peak' CZ: (Drafting): (74) ‘peak shaving product’ means a market-based product through which market participants can provide peak shaving to the transmission system operators or distribution system operators; CZ: (Comments): In the Czech Republic, similar service is being used also on a DSO level, so there shall be no discrimination against them. This product shall be outside of the electricity market as it shall aim for SoS purely.

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	MT: (Drafting): (74) ‘peak shaving product’ means a market-based product through which market participants can provide peak shaving to the transmission system operators or distribution system operators; MT: (Comments): Currently the definition only refers to TSOs. We propose an extension to DSOs to cover all Member States’ specificities, since Malta does not have a TSO. See also proposed change under Art. 7a.
(75) ‘virtual hub’ means a non-physical region covering more than one bidding zone for which an index price is set in application of a methodology;	
(76) ‘two-way contract for difference’ means a contract signed between a power generating facility operator and a counterpart, usually a	BE: (Comments):

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public entity, that provides both minimum remuneration protection and a limit to excess remuneration; the contract is designed to preserve incentives for the generating facility to operate and participate efficiently in the electricity markets and complies with the principles set out in Article 4(2) and Article 4(3), first and third subparagraphs, of Directive (EU) 2018/2001;	Considering the reference that is made to the RED should we understand this that ‘two-way contract for difference’ is only for renewables? ES: (Comments): Scrutiny reservation on the interplay of this regulation and the provisions in the Renewables Directive 2018/2001 (REDII). The list of technologies in this regulation changes the scope of REDII but reference is made to art. 4 that inly applies to renewables. It would be useful to have a more detailed explanation from the Commission to better understand the application of the provisions of this Regulation and REDII altogether in terms of the different scope (different technologies) and different types of schemes envisaged in each of them (premium vs CfDs). How can we ensure that art. 4.2 and 4.3 of the Renewables Directive (focused on the design of schemes for renewable technologies) apply to other technologies included in the list that are not renewable? LU: (Drafting): (76) ‘two-way contract for difference’ means a contract signed between a power generating facility operator and a counterpart, usually a public entity, that provides both minimum remuneration protection and a limit to excess remuneration; the contract is designed to preserve incentives for the generating facility to operate and participate efficiently in the electricity markets, respond to market signals while avoiding unnecessary distortions of electricity markets and complies with the principles set out in Article 4(2) and Article 4(3),

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	first and third subparagraphs, of Directive (EU) 2018/2001; DK: (Comments): What if a member states want a share in a project without granting aid, does that then mean it is a support scheme and have to be a two-way CfD?
(77) ‘power purchase agreement’ or ‘PPA’ means a contract under which a natural or legal person agrees to purchase electricity from an electricity producer on a market basis;	PL: (Drafting): (77) ‘power purchase agreement’ or ‘PPA’ means a contract under which a natural or legal person agrees to purchase electricity from an electricity producer on a market basis; PL: (Comments): Proposed legal definition is not compatible with the one from Directive 2018/2001. It is unclear what is and intention of adding “on a market basis” to the definition. PT: (Comments): <i>“A legal person is an entity such as a company or corporation that is recognized by the law as having rights and obligations. A natural person is a human being.”</i>

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	A public entity is a “legal person”? need to be clarified. The possibility to be established PPA with public entities. Will it be restricted to just one producer or is it possible for the supplier to be a group of producers or an aggregator? HU (Drafting): ‘power purchase agreement’ or ‘PPA’ means a contract under which a natural or legal person agrees to purchase electricity from an non-fossil electricity producer on a market basis;
(78) ‘market revenue’ means realised income an electricity producer receives in exchange for the sale and delivery of electricity in the Union, regardless of the contractual form in which such exchange takes place, and excluding any support granted by Member States;	BE: (Comments): Are there not also other forms of income that can be relevant? For example remuneration for the availability of power generating capacity, storage or demand response ? ES: (Comments): Scrutiny reservation. What is the aim of this definition? It is similar to the one in Council Regulation 2022/1854 but is not used in the text. Nevertheless, there may be market revenues coming from other services that are not sale and delivery of energy (e.g. reactive current or voltage control).

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(79) ‘dedicated metering device’ means a device attached to or embedded in an asset that sells demand response or flexibility services on the electricity market or to transmission and distribution system operators;	LT: (Drafting): ‘dedicated metering device’ means a device attached to or embedded in an asset that sells demand response or flexibility services or other services procured by TSO or DSO on the electricity market or to transmission and distribution system operators; LT: (Comments): It should be clearly explained in the text of this Regulation that dedicated metering device should be used only if smart meters are not installed or do not provide for the sufficient level of data granularity. Term ‘flexibility service’ should be clearly defined or explained. It is not clear if the ‘flexibility service’ is one of the non-frequency ancillary services as they defined in the Directive (EU) 2019/944. Peak shaving is added to the definition of ‘non-frequency ancillary service’ but peak shaving is assumed to be realized by flexibility service. If the usage of dedicated metering devices is assumed, then these devices should be used not only for selling demand response or flexibility services. BE:

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	(Comments): Is a ‘dedicated metering device’ different from a submeter? Is this only to be used for flexibility or demand response services? Or can this also be used as a metering device for a separate electricity contract e.g. for an EV (linked to the right to have more than one contract in article 4)? ES: (Comments): Further clarification on the reference “<i>an asset that sells demand response or flexibility services</i>” would be needed: It is not clear how an asset itself could sell services, as it would normally be a market participant (consumer or another type of service provider).
(80) ‘flexibility’ means the ability of an electricity system to adjust to the variability of generation and consumption patterns and grid availability, across relevant market timeframes.’	LT: (Drafting): (80) ‘system flexibility’ means the ability of an electricity system to adjust to the variability of generation and consumption patterns and grid availability, across relevant market timeframes.’ LT: (Comments): ‘Flexibility’ is defined as feature of electricity system, although in the text ‘flexibility’ is also

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	used in the meaning of ‘source of flexibility’, ‘flexibility solution’ or other, e.g.: (17) In order to be able to actively participate in the electricity markets and to <u>provide their flexibility, consumers</u> are progressively equipped with smart metering systems. (38) To achieve the national objective for non-fossil <u>flexibility such as demand side response and storage</u> investment needs, Member States can design or redesign capacity mechanisms in order to create a green and flexible capacity mechanism. The defined term should be used clearly and consistently in the whole text. BE: (Comments): Can the Com explain why she considers it necessary to introduce a definition since the term flexibility was already used in the 2019/944 directive but it was not defined then? The focus in this directive was mostly on ‘demand response’ and which was defined in this directive. What is the link between this notion and the notions of demand response and flexibility services/schemes used in the EMD Directive? What is the relation between this definition of ‘flexibility’ and the definition of ‘demand response’? Is ‘demand response’ as defined in the 2019/944 directive a form of explicit flexibility? What is the scope of this definition? Can flexibility be seen as both implicit flexibility (e.g. ToU tariffs or dynamic price contracts) and explicit flexibility (e.g. balancing products like FCR/aFRR or congestion products from the DSO) which include flexible sources like demand response, energy storage and flexible production?

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	DK: (Comments): The definition is very broad. It does not seem operational for the present purposes of a legal text, and fitting to all places where it is used. E.g. in the context of the COM proposal of article 19 c, it would seem more appropriate to define flexibility more operationally in relation to a demand from system operators for system users to adjust their generation/consumption patterns. DK would therefore like to see a more operational definition.
	LT: (Comments): Additionally, term ‘flexibility service’ should be clearly defined or explained as it is also used in the definition of ‘dedicated metering device’. It is not clear if the ‘flexibility service’ is one of the non-frequency ancillary services as they defined in the Directive (EU) 2019/944. Peak shaving is added to the definition of ‘non-frequency ancillary service’ but peak shaving is assumed to be realized by flexibility service. In Lithuania two terms are defined: ‘non-frequency ancillary service’ is defined as service used by TSO and ‘flexibility service’ is defined as service used by DSO.
(3) Article 7 is amended as follows:	

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[a] paragraph 1 is replaced by the following:	
‘1. Transmission system operators and NEMOs, or an entity designated by them, shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222. Transmission system operators and NEMOs shall cooperate at Union level or, where more appropriate, at a regional level in order to maximise the efficiency and effectiveness of Union electricity day-ahead and intraday trading. The obligation to cooperate shall be without prejudice to the application of Union competition law. In their functions relating to electricity trading, transmission system operators and NEMOs shall be subject to regulatory oversight by the regulatory authorities pursuant to Article 59 of Directive (EU) 2019/944 and ACER	EE: (Comments): Why is it necessary to add “or an entity designated by them” to this paragraph? What problem is this trying to solve? PL: (Drafting): 1. Transmission system operators and NEMOs, or an entity designated by them, shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222. Transmission system operators and NEMOs shall cooperate at Union level or, where more appropriate, at a regional level in order to maximise the efficiency and effectiveness of Union electricity day-ahead and intraday trading. PL: (Comments): Poland proposes to delete this fragment. Should the TSOs and NEMOs decide to introduce new entity (which to this point did not gain a wider approval from all involved stakeholders) they have freedom to do so. Decision on the creation of said entity should be facilitated through a bottom-up process, taking into account both cost-effect analysis and demand/necessity for this solution.

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pursuant to Articles 4 and 8 of Regulation (EU) 2019/942.’	PT: (Drafting): ‘1. Transmission system operators and NEMOs, or an entity designated by them, shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222. Transmission system operators and NEMOs shall cooperate at Union level or, where more appropriate, at a regional level in order to maximise the efficiency and effectiveness of Union electricity day-ahead and intraday trading PT: (Comments): It is not possible to identify or quantify the benefits of the proposed measure, without a specific cost-benefit analysis. The creation of this new entity would require additional direct resources and demand additional indirect resources from other entities, namely TSOs, with which it would have to be articulated. The current organization of the day-ahead and intraday markets has evolved significantly and will evolve further while providing significant benefits to electricity consumers without the need for more entities to assume the roles that are already well defined. IT: (Drafting):

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	“Transmission system operators and NEMOs, or an entity designated by them, shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222.” IT: (Comments): The Commission proposal, to be considered together with the one on art. 59, appears to violate the principle of proportionality as it's not functional to achieving the objectives of the market design revision under discussion. Those proposals appear to be meant to create a legal basis for a modification of the Capacity Allocation and Congestion Management Regulation – CACM (that's an implementing act as referred to in art 59), by which the operational management of Single Day Ahead Coupling (SDAC) and of Single Intraday Coupling (SIDC) can be performed by a "Single Legal Entity" (SLE); this possibility represents a significant reform in European governance of the electricity markets - of absolute strategic importance for each Member State – that would be, taking on board the amendment proposed by the Commission, through a decision by a technical body (Commission or ACER through the procedures of an implementing act) instead of passing through a legislative procedure as the relevance of the issue under discussion would require . CZ: (Drafting): ‘1. Transmission system operators and NEMOs, or an entity designated by them, shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222. Transmission system operators and NEMOs shall cooperate at Union level or, where more appropriate, at a regional level in order to

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	maximise the efficiency and effectiveness of Union electricity day-ahead and intraday trading. The obligation to cooperate shall be without prejudice to the application of Union competition law. In their functions relating to electricity trading, transmission system operators and NEMOs shall be subject to regulatory oversight by the regulatory authorities pursuant to Article 59 of Directive (EU) 2019/944 and ACER pursuant to Articles 4 and 8 of Regulation (EU) 2019/942.’ CZ: (Comments): The added text does not correlate with the declared goals of EMD amendment, which are mainly to protect consumers; enhance stability and predictability of the cost of energy, thereby contributing to the competitiveness of the EU economy and to boost renewable energy investment. We would argue that the introduction of such an entity might have in fact the opposite outcome. The EMD has explicitly highlighted the benefits of the current Single Day & Intraday Couplings (SDAC – SDIDC) for all Europeans and the potential introduction of such an entity might have a disruptive effect.

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	Governance-related issues have not been identified either by ACER or the EC as an obstacle for the proper functioning of the EU Electricity Wholesale Market. The additional finances needed for its establishment will have to borne by the customers, while the system currently in place will have to be simply abandoned, thus leading to sunk costs. Last but not least, despite introducing the LSE only as a possibility, the EMD says nothing about who should (in the future) decide whether to implement it or not, de facto delegating such decision to purely technical bodies (it could be ACER or the EC), outside of the control of Member States. HU (Drafting): Transmission system operators and NEMOs, or an entity designated by them, shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222.
[b] paragraph 2 is amended as follows:	

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(i) point (c) is replaced by the following:	
(c) maximise the opportunities for all market participants to participate in cross-zonal and intra-zonal trade in a non-discriminatory way and as close as possible to real time across and within all bidding zones;	PL: (Drafting): (c) maximise the opportunities for all market participants to participate in cross-zonal and intra-zonal trade in a non-discriminatory way and as close as possible to real time across and within all bidding zones; PL: (Comments): More explanation is needed on the intent of this proposal-whether this involves only sharing of the books of order or whether the intention behind this proposal is much wider. There is a certain concern that going beyond the scope of integration of the day-ahead and intraday markets could be unnecessarily burdensome and difficult to implement and potentially impact already ongoing or planned reforms. IE: (Comments): Not sure what “as close as possible to real time” means here. It may be technically possible to have gate closure very close to real time, but not beneficial overall.

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	DK: (Comments): We support this change HU (Drafting): maximise the opportunities for all market participants to participate in cross-zonal and intra-zonal (within a bidding zone) trade in a non-discriminatory way and as close as possible to real time across and within all bidding zones;
(ii) the following point (ca) is inserted:	
'(ca) be organised in such a way as to ensure the sharing of liquidity between all NEMOs, both for cross-zonal and for intra-zonal trade;'	DK: (Comments): We support this change
	ES: (Drafting): (iii) the following point (i) is inserted:

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Commission proposal	Drafting Suggestions Comments
	(i) bidding shall be submitted by market participants using generation units rather than portfolio units. ES: (Comments): It is crucial for market transparency and effective market supervision that participation in the day-ahead market is compulsory for all generation assets, regardless of their bilateral agreements. In addition, bids should be compulsory on a per plant basis, as opposed to portfolio bidding.
(4) the following Articles 7a and 7b are inserted:	
‘Article 7a	BE: (Comments): Can the Commision explain what is the intention of this newly introduced product? Is this focused on Security of Supply or is the intention that this could also be usefull for congestion ? Can the COM give some more information how this procuct would interact with existing

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	products ? Can the com give more information on how this would interact with the Security of Supply calibration? Can the com give some more information why she proposed to limit the use of this new product only to the TSO and not open it for the DSO?
Peak shaving product	LT: (Comments): In regards with 2022 high prices and max price situation on 2022.08.17 in Baltic region, enhanced market design should allow TSOs to have peak load reserve option under certain pre-agreed rules. Peak load reserve does not distort the market in a long run but might prevent market participants and final consumers from extreme energy spikes in extraordinary situations. Full transparency on the rules and after the activation of peak load reserve should be ensured. NL: (Comments): The Netherlands is cautious that the addition of different schemes for the contracting of demand side response in addition to already available possibility for TSOs to contract DSR for balancing purposes risks fragmenting markets for flexibility, and may distort the level playing

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	field between member states and between technologies towards DSR and storage at the expense of for example interconnection. PL: (Comments): As a general principle, limiting consumption during peak hours should be the role of market prices, so the target solution is for resources with this capacity to operate in the balancing market in particular. As a transitional solution, peak shaving products could be useful, but they appear similar to other products on the balancing market. Therefore, the possibility of their activation in the balancing time horizon should not be excluded.
1. Without prejudice to Article 40(5) and 40(6) of the Electricity Directive, transmission system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak hours.	LT: (Drafting): 1. Without prejudice to Article 40(5) and 40(6) of the Electricity Directive, transmission system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak hours. To procure peak shaving products transmission system operators may create dedicated platform for such products procurement or adapt existing platforms that are used to procure services for transmission system operators needs.

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	LT: (Comments): Explanation is needed why DSOs are left outside of the peak shaving products procurement. PL: (Comments): The use of peak shaving products must not be obligatory. PT: (Drafting): Without prejudice to Article 40(5) and 40(6) of the Electricity Directive (EU) 2019/944, transmission system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak hours. PT: (Comments): Linked with a new paragraph introduced in this proposal. Seems better the reference to the ongoing Electricity Directive to avoid misunderstandings LU: (Comments):

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	We welcome this option, bearing in mind that demand response should also access all markets without discrimination rather than being redirected exclusively towards some dedicated products. DK: (Comments): DK finds it important to ensure that the peak shaving product does not distort the established short-term markets (e.g. day ahead, intraday and the balancing markets). If the peak shaving product introduces distortions to the markets in one country, it will probably also introduce distortions to the markets in another European country. MT: (Drafting): 1. Without prejudice to Article 40(5) and 40(6) of the Electricity Directive, transmission system operators or distribution system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak hours MT: (Comments): Currently the Article only refers to TSOs. We propose an extension to to cover all Member States' specificities.

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	Should this not be acceptable, the text should clarify that in the case of Matla, references to TSOs should also include DSOs.
2. Transmission system operators seeking to procure a peak shaving product shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority of the Member State concerned. The proposal of the transmission system operator shall comply with the following requirements:	ES: (Drafting): Transmission system operators seeking to procure a peak shaving product shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority or, where a Member State has designated another competent authority for that purpose, such designated competent authority, of the Member State concerned. The proposal of the transmission system operator shall comply with the following requirements: PT: (Drafting): 2. Transmission system operators seeking to procure a peak shaving product, within the national balancing market, shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority of the Member State concerned. The proposal of the transmission system operator shall comply with the following requirements: PT:

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	(Comments): TSOs are in charged of the procurement of peak shaving product. Therefore, to avoid additional system management issues and conflicts with intraday market, this product should be part of balancing market. This may allow increased liquidity in the balancing market, providing greater flexibility to TSOs.
(a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account a reliability standard or objective and transparent grid stability criteria approved by the regulatory authority. The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that the expected	LT: (Comments): More clarity is needed what is meant by the “dimensioning of the peak shaving poduct”. More clarity is needed how Member States should treat grid stability criteria. If regulatory authority should take this criteria into account during need for additional services analysis, there should be clear conditions how it is calculated. BE: (Drafting): (a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account a market wide cost benefit analysis reliability standard or and objective and transparent grid stability criteria approved by the regulatory authority. The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other sources of flexibility in the system as well as the wholesale price impact of

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benefits of the product do not exceed the forecasted costs;	the avoidable dispatch of high marginal cost peak generating capacity . The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted costs; EE: (Comments): The problem with peak shaving product is that the amount of demand response that is procured is taken out of the day-ahead market, although it could potentially participate as DR in the market as well and lower the day-ahead price. If the amount of DR is instead maintained in the day ahead market, then it can lower the price for all consumers and be much more socio-economically beneficial. The peak-shaving product design is taking valuable resource out of the market, thus reducing the liquidity in the market and making the market even more vulnerable to high price occurrences. This is especially acute in peaks hours, which might cause the occurrence of very high (maximum) market prices. Promoting DR in day-ahead market would be more beneficial approach and could eventually give the same benefit from the security of supply side as activating the peak shaving product. ES: (Drafting): (a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account a reliability standard or objective and transparent grid stability criteria approved by the regulatory authority or, where a Member State has designated another competent authority for that purpose, such designated competent authority,. The dimensioning shall take into account

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	the forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted costs; ES: (Comments): Article 25 of Regulation 2019/943 already states that the reliability standard may be determined by the competent authority designated by the Member State. As the proposed peak shaving product is closely related to the reliability standard designated by such authority, the attribution of competences is replicated as such. DK: (Drafting): (a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account a reliability standard or objective and transparent grid stability criteria approved by the regulatory authority. The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted costs.

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	The cost/benefit analysis shall take into account the effect on other established short-term markets (e.g. day ahead, intraday and the balancing markets). DK: (Comments): The Transmission system operator has, within current legislation, the competence to develop necessary products to secure electricity of supply without taking a reliability standard or objective and transparent grid criteria into account. Products and methods are developed in close coordination with TSO's from Member States within same synchronous and/or market area. Products and methods are approved by the regulatory authority of the Member State. Further requirements to a proposal regarding a new "peak shaving product" will delay market development and create a barrier for demand response/consumption flexibility. Especially in Member States where a reliability standard is not yet set. On the other hand a peak shaving product in between day ahead and intraday could move flexibility from day ahead to peak shaving and increase prices in day ahead as a consequence. The cost/benefit analysis must therefore take into account the effect not only on the day ahead, intraday and balancing markets in the Member States but also crossborder.

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	The abovementioned provisions in the current legislation should be maintained as this flexible regarding competent authority takes account of different institutional arrangements and division of responsibilities in Member States. DK would furthermore like to ask the Commission if it can provide a definition of ‘<i>an objective and transparent grid stability criteria</i>’?
(b) the procurement of a peak shaving product shall be based on objective, transparent, non-discriminatory criteria and be limited to demand response;	BE: (Comments): Is storage and V2G demand response?
(c) the procurement of the peak shaving product shall take place using a competitive bidding process, with selection based on the lowest cost of meeting pre-defined technical and environmental criteria;	BE: (Drafting): (c) the procurement of the peak shaving product shall take place using a continious competitive bidding process, with selection based on the lowest cost of meeting pre-defined technical and environmental criteria;

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(d) contracts for a peak shaving product shall not be concluded more than two days before its activation and the contracting period shall be no longer than one day;	BE: (Drafting): (d) — contracts for a peak shaving product shall not be concluded more than two days before its activation and the contracting period shall be no longer than one day; BE: (Comments): This paragraph is too limiting. The development and investment in such products also requires secured longer term forward revenue streams. A daily product only will not incentivize investments sufficiently. Different products in different timeframes should be allowed (e.i. yearly, seasonal, monthly, weekly and daily) ES: (Drafting): (d) contracts for a peak shaving product shall not be concluded more than two days before its activation and the contracting period shall be no longer than one day, unless otherwise established by the competent authority; ES: (Comments): To define such a limiting timely framework may undermine market competitiveness and market efficiency, so the obligation is relaxed, subject to the better criteria of the competency

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	authority. IE: (Comments): The limit of these contracts as being entered into at D-2 is quite restrictive maybe
(e) the activation of the peak shaving product shall not reduce cross-zonal capacity;	
(f) the activation of the peak shaving product shall take place after the closure of the day-ahead market and before the start of the balancing market;	EE: (Drafting): (f) the activation of the peak shaving product shall take place in the day-ahead market, after the transmission system operator, based on the system adequacy assessment, has decided and informed NEMO of the activation of the product ahead of day-ahead market algorithm calculation; EE: (Comments): In this case the product loses the opportunity to lower the price peaks that probably occur in

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	these critical hours (low generation - high demand) when the product must be activated. We propose to allow product to participate in day-ahead market and the TSO should decide the activation of product ahead of day ahead algorithm calculation, based on its system adequacy assessment. The product activation is justified in those hours where the system adequacy assessment suggests that there is a risk of load and generation curves not crossing (maximum price occurs). PL: (Drafting): the activation of the peak shaving product shall take place after the closure of the day-ahead market and before the start of the balancing market; PL: (Comments): The possibility activation of peak shaving products in the balancing time horizon should not be excluded. ES: (Drafting): (f) the activation of the peak shaving product shall take place after the closure of the day-ahead market and before the start of the balancing market, unless otherwise established by the

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	competent authority; ES: (Comments): Same comment as (d) PT: (Drafting): (f) — the activation of the peak shaving product shall take place after the closure of the day-ahead market and before the start of the balancing market; PT: (Comments): In accordance with Article 7a (2), TSOs are in charged of the procurement of peak shaving product. Therefore, this product should be part of balancing market.
(g) the peak shaving product shall not imply starting generation located behind the metering point.	LT: (Comments): More clarity is needed how this should be implemented. TSOs do not have visibility behind the meter activities.

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	BE: (Comments): How about storage? PL: (Drafting): (g) — the peak shaving product shall not imply starting generation located behind the metering point. PL: (Comments): The requirement to exclude generation located behind the metering point seems difficult or actually impossible to verify.
3. The actual reduction of consumption resulting from the activation of a peak shaving product shall be measured against a baseline, reflecting the expected electricity consumption without the activation of the peak shaving product. Transmission system	BE: (Drafting): 3. The actual reduction of consumption offtake resulting from the activation of a peak shaving product shall be measured against a baseline, reflecting the expected electricity consumption without the activation of the peak shaving product. Transmission system operators shall develop a baseline methodology in consultation with market participants and

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operators shall develop a baseline methodology in consultation with market participants and submit it to the regulatory authority.	submit it to the regulatory authority. BE: (Comments): Consumption=/offtake with local production and storage We feel that an individual baseline may not be the best method to apply to smaller consumers or net users connected to the low voltage grid if they want to participate (optionally through aggregation) to this product. So alternative methodologies to individual baselining should be an option. ES: (Drafting): 3. The actual reduction of consumption resulting from the activation of a peak shaving product shall be measured against a baseline, reflecting the expected electricity consumption without the activation of the peak shaving product. Transmission system operators shall develop a baseline methodology in consultation with market participants and submit it to the competent authority. ES: (Comments): The text shall reflect the possibility of competent authorities other than the national regulatory authority to approve any measure in this respect, considering the link to demand reduction

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	measures or security of supply issues. PT: (Comments): Seems in line with Article 4 (2) of the Council Regulation (EU) 2022/1854. But the prediction/forecast to be made should not take into account the possible activation of this product. LU: (Drafting): 3. The actual reduction of consumption resulting from the activation of a peak shaving product shall be measured against a baseline, reflecting the expected electricity consumption without the activation of the peak shaving product. <u>Where they decide to procure peak shaving products pursuant to paragraph 1</u>, transmission system operators shall develop a baseline methodology in consultation with market participants and submit it to the regulatory authority. LU: (Comments): We would like to clarify that the establishment of the baseline is mandatory only in case where TSOs decide to establish the peak shaving product.

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4. Regulatory authorities shall approve the proposal of the transmission system operators seeking to procure a peak shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 3 or shall request the transmission system operators to amend the proposal where it does not meet the requirements set out in these paragraphs.	BE: (Comments): The regulator or the TSO should also assess whether the peak shaving product is necessary ES: (Drafting): 4. Regulatory authorities or, where a Member State has designated another competent authority for that purpose, such designated competent authority, shall approve the proposal of the transmission system operators seeking to procure a peak shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 3 or shall request the transmission system operators to amend the proposal where it does not meet the requirements set out in these paragraphs.
Article 7b	IT: (Drafting): Article 7b; or IT: (Comments):

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	It is proposed to eliminate the possibility that meters dedicated to specific loads can be used to enhance the provision of balancing services (settlement). The proposal allows TSOs and DSOs to use meters owned by the end user, installed under the withdrawal point, and dedicated to a subset of the user's loads. It seems completely inappropriate for these meters to be used to determine the provision of balancing services (settlement) since only the overall exchange with the public network can be used for this purpose (otherwise it could happen that a flexibility service rendered with a part of the loads underlying the same connection point, against a more limited or no benefit for the system if the remaining loads underlying the connection point reduce or nullify the flexibility provided). It is therefore proposed to eliminate the art. 7b or at least exclude the use for settlement purposes.
Dedicated metering device	PL: (Comments): The proposal should be explained in more detail. Many issues are unclear, for example, what exactly is a dedicated metering device (with concrete examples), who bears the cost of the device installation and of the device itself, who owns the device, how exactly it differs from a smart meter and what are its functionalities. PT: (Comments): It is important to clarify if these sub-meters fit the MID Directive (2014/32, and if it will be

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	necessary to revise the same Directive or if this Directive does not apply to these equipments. The certification (at European level) of these sub-meters should be a mandatory starting point, focusing, from the outset, on the safety dimension of this equipment (which becomes another gateway to the electrical system). Also note that, in a context close to daily telemetering on the BTN (for 100% of the installations), this should be a necessary requirement for considering sub-meters in measurement, reading and data provision activities.
1. “Member States shall allow transmission system operators and distribution system operators to use data from dedicated metering devices for the observability and settlement of demand response and flexibility services, including from storage systems.	LT: (Drafting): Member States shall allow transmission system operators and distribution system operators to use data from dedicated metering devices for the observability and settlement of demand response and flexibility services, including from storage systems if smart metering systems are not deployed according to the Article 19 of the Directive (EU) 2019/944 or functionalities of smart metering systems or smart meters are not consistent with the requirements set in the Article 20 of the Directive (EU) 2019/944. LT: (Comments): It should be clearly stated that dedicated metering device should be used only if smart meters are not installed.

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	BE: (Comments): Can the COM explain the intention of this new provision? Is the scope of the ‘dedicated metering’ device limited to flexibility services or can the data from these devices also be used for separate electricity contracts? The data process and qualifications will be similar to both purposes. What is the link between the ‘dedicated metering device’ and the (installed) smart meters? How should this be understood compared to the DSO’s have a data validation process set up for the data from the smart meters (and sub meters) that can be used for flexibility services and different supply contracts? What is the difference between dedicated metering device and submeters in the framework of flexibility services ? Why it is necessary to have dedicated metering device if the customer has a smart meter installed? What is the difference between demand response and flexibility services in the context of this provision? Can the COM further explain it should be an obligation for the MS to allow TSO and DSO to

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	use data from dedicated metering devices and not a faculty? ES: (Drafting): 1. “Member States shall allow transmission system operators and distribution system operators to use data from dedicated metering devices for the observability and settlement of demand response and flexibility services, including from storage systems, in accordance with the applicable Union data protection and privacy rules. In any case, the aforementioned obligation shall be subject to a cost-benefit assessment articulated by the competent authority, allowing a baseline methodology where economically convenient otherwise, or where smart metering already allows that possibility. ES: (Comments): It is not recommended to impose such a demanding metering requirements, since it could be detrimental to the deployment of demand response and flexibility services. It should be led to competent authorities to decide which sheme is preferable taking into account the existing situation in Member States in relation to metering devices. In addition, a reference to the accomplishment with the applicable Union data protection rules. IT: (Drafting): “Member States shall allow transmission system operators and distribution system operators to

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	use data from dedicated metering devices for the observability and settlement of demand response and flexibility services, including from storage systems.” CZ: (Drafting): 1. “Member States shall allow Transmission system operators, and distribution system operators and NEMOs shall be allowed to use data from dedicated metering devices for the observability and settlement of demand response and flexibility services, including from storage systems. CZ: (Comments): It is easier to give TSOs, DSOs, NEMOs these rights already here without having to wait for transposition into national legislation.
2. Member States shall establish requirements for a dedicated metering device data validation process to check and ensure the quality of the respective data.’;	BE: (Comments): EU or international standardisation for these meters should also required next to the data validation processes set up by the MS. Quid recital 18 minimizing data collection?

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	PL: (Comments): The proposal does not specify the quality requirements relating to data, how to ensure efficient communication channel regarding data collection, and what entity will be obligated to acquire data from such a device. There is also a need to define the legal basis for processing personal data from the dedicated metering device by TSOs and DSOs in the context of the GDPR. Finally, there may be a need to amend the MID Directive to regulate the introduction of such a device as a simplified electricity meter. LU: (Drafting): 2. Member States shall establish requirements for a dedicated metering device data validation process to check and ensure the quality and interoperability of the respective data.'; LU: (Comments): Ensuring interoperability, such as in terms of data formats and standardized data sets, is important.
(5) Article 8 is amended as follows:	LT: (Comments): LT takes scrutiny reservation for this article.

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Commission proposal	Drafting Suggestions Comments
(a) paragraph 1 is replaced by the following:	IT: (Drafting): (a) paragraph 1 is replaced by the following:
‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.’	LT: (Comments): Shortening the ID XB GCT to 30’ ahead of real time must be carefully assessed, as it may have severe consequences on the way some TSOs in Europe operate their systems. BE: (Drafting): NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2024, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.’ BE: (Comments): 2028 is too late (5 years for a trading modality in a highly digitalized sector!?). Liquidity and maximizing the exchange of RES should be the main priority in order to protect EU energy market, households and industry against the historic fossil fuel price sensitivity.

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Commission proposal	Drafting Suggestions Comments
	ES: (Drafting): ‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time. Nevertheless, the aforementioned deadline may be subject to a cost-benefit analysis issued by national regulatory authorities that evaluates the existence of european balancing platforms as well as other aspects such as grid congestion managed by the TSOs. Where recommended by the aforementioned cost-benefit analysis, the above deadline may be delayed by the national regulatory authority.’ ES: (Comments): A more in-depth and ad hoc analysis should be done in order to evaluate whether or not is economically efficient to shorten the gate closure. PT: (Drafting): ‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.’

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Commission proposal	Drafting Suggestions Comments
	PT: (Comments): This is a measure that allows trading on the spot market (in the continuous intraday market) to be closer to real time. From a theoretical point of view, the measure allows agents to minimize their deviations, as they have greater visibility over their actual consumption and production. On the other hand, this approximation to real time reduces the response time of TSOs for balancing actions and makes the implementation of all processes more demanding. This paragraph, if maintained, will have severe consequences on the way some TSOs in Europe operate their national electricity systems. For part of the European TSOs, mainly those applying a proactive approach to system balancing in accordance with relevant EU regulatory framework (as is the case of the Portuguese TSO), shortening of the Intraday Cross-Border Gate Closure Time would entail a complete change of the balancing strategy and potentially compromise system security, cost-efficiency and probably lead to higher CO2 emissions. Introducing a compulsory predefined timing, regarding intraday gate closure time, without any impact assessment on the different systems' security and CO2 emissions impact is inadequate at this stage. This potential change needs to be carefully assessed in order to find the best scheme compatible with all market integration steps already achieved. This is currently not the case – the Commission staff working document paints a very simplified picture where markets

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	are coupled, meaning that the dispatch of generation and demand response is organised across Europe in a single process, with no mention whatsoever of the complexity and system security boundaries of that process. In the future, shorter intraday gate closure times could be introduced where needed – subject to a thorough impact assessment, positive cost-benefit analysis, and compatibility with future operational constraints - to match the higher temporal variability of weather-dependent generation and increased forecasting reliability close to real-time when no sufficient means to allow for renewable energy participation in balancing are available. However, TSO's consider important to avoid including requirement on timings directly in legislation, as these are detailed market design features which are better dealt via terms & conditions and methodologies of implementing acts as CACM GL and EB GL. IT: (Drafting): 'NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.'² IT: (Comments): It points out that the current European Single Intraday Coupling already introduces great opportunities and flexibility for market participants to adapt their schedules in accordance with their best forecasts. Going into details of the proposal we underline that moving the gate

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	closure closer to real time: - could be unfeasible for, as in conflict with operational constraints to keep the system balanced in real time, or feasible with huge costs for the system; - will completely overlap with the timings of the RR balancing platform (TERRE); Moreover, the introduction of such a measure on the market should be previously subject to a detailed positive cost-benefit analysis, compatibly with operational constraints. For these reasons we suggest to delete the provision. IE: (Drafting): ‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall leave a reasonable interval ahead of real time to allow the completion of all necessary operational tasks in an expeditious manner.’ IE: (Comments): 1 January 2028 could be a tight timeline to implement 30-minute gate closure time for intraday cross-zonal gate closure.

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	An ability for NRAs to grant a derogation would be useful here. CZ: (Drafting): By 1 January 2028 As soon as possible/Without delays; the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.' CZ: (Comments): This is too ambitious, especially for pro-active TSOs participating in European projects on balancing energy sharing MARI and TERRE. They would have to substantially change their trading processes and strategies. We propose extending the deadline that would enable change of the 2017/2195 regulation and accompanying methodologies. Because of these uncertainties, we would prefer not to include precise deadline stated in the regulation 2019/943. DK: (Drafting): 'NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028³¹, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.' DK:

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	(Comments): DK supports the aim of reducing gate-closure time but finds that it will require more time to implement the necessary system that ensure faster reaction. With shorter gate closure time, sufficient capacity must be ready to react in a shorter time frame as well. FR: (Drafting): ‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.’ FR: (Comments): Imposing a gate closure 30 minutes ahead of real time would increase the cost for consumers since it would exclude some assets from participating to the reserve (in France, RTE would lose 2/3 of the assets available with a one hour time). Moreover, assets that can respond in less than 20 minutes are mainly thermal units and so changing this closure time would go against our climate objectives. Finally, this would lead to use more automatic reserve which is more expensive and thus, this would increase the cost for consumers. France also wonders if these technical points shall be defined in this text or in framework

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	guidelines on CACM. HU (Drafting): <u>Suggestion 1</u> ‘NEMOs shall allow market participants to trade energy on the intraday auction market as close to real time as possible and at least up to the intraday continuous cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.’² <u>Suggestion 2</u> ‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2024⁴⁸, in accordance with Article 9 of Regulation (EU) 2015/1222, NEMOs and TSOs shall review and submit the methodology on the intraday cross-zonal gate opening and closure time specified in Article 59 of Regulation (EU) 2115/1222 for approval. This review shall identify be at the earliest feasible intraday cross-zonal gate closure 30 minutes ahead of real time and should also contain an implementation roadmap. The target date for implementation shall not be later than 1 January

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	2028. ?
(b) paragraph 3 is replaced by the following:	
‘NEMOs shall provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid sizes of 100kW or less, to allow for the effective participation of demand-side response, energy storage and small-scale renewables including direct participation by customers.’	PL: (Drafting): ‘NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.’ PL: (Comments): Poland is of the opinion that while MSs should facilitate incentives for market participants to trade as close to real time as possible current model design does not allow for movement of intraday cross-zonal gate closure time to 30 minutes ahead of real time. TSOs need more time to adapt the operating conditions of the system to the trading results and to ensure the security of the system. They also need necessary time for exchange of information with other TSO. This solution could also impact already ongoing or planned reforms. CZ: (Comments): This change from 500 kW to 100 Kw shall be well assessed and accompanied by a CBA

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Commission proposal	Drafting Suggestions Comments
	analysis, as it might a substantial impact on the options of market participants to offer complex products. We are not in principle against, just wanna see the CBA. DK: (Comments): DK supports lower minimum bid sizes.
[6] Article 9 is replaced by the following:	FR: (Drafting): [6] Article 9 is amended as follows:
Article 9	CZ: (Drafting): Article 9
Forward markets	LT: (Comments): LT takes scrutiny reservation for this article. PL:

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Commission proposal	Drafting Suggestions Comments
	(Comments): Virtual hubs proposal, while it could potentially have an impact on increasing the liquidity of forward markets, it should be preceded by thorough impact assesment to ensure it does solve the problem at hand and it does not have any detrimental impact on short term markets. The concept itself, as presented in the commission staff working document does not provide necessary information. IT: (Drafting): 9 p1 e p2 on REGIONAL VIRTUAL HUBS and SINGLE ALLOCATION PLATFORM for REGIONAL VIRTUAL HUBS: It could be required that the Commission's proposal be accompanied by an adequate impact assessment. IT: (Comments): It is a significant modification of the current design of the European market which would have been appropriate to be accompanied by an adequate impact analysis. In general, it involves greater "financialisation" of the forward electricity market and of risk hedging products determined by the price differential between market areas, the effects of which are not immediately identifiable. As far as the Italian system is concerned, it should not lead to upheavals, at least in the

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	hypothesis that Italy can constitute a "proper" virtual hub. In this case, the main change would consist in the fact that the "CCC" hedging products would be allocated by the European platform and no longer by Terna, with an allocation algorithm over which we will have less control than today. As regards hedging the risk of the differential with foreign markets, the proposal seems to keep unchanged the possibility that operators can purchase financial rights between the Italian zone and the foreign zone or between the Italian hub and the foreign one. CZ: (Drafting): Forward markets
	FR: (Drafting): [a] the following point (3) is added: 3. The single allocation platform shall allocate long-term transmission capacity on a regular basis; the frequency of allocation of the long-term cross-zonal capacity shall support the efficient functioning of the forward market. It shall offer trading of financial transmission rights allowing holders of these transmission rights to hedge price risks across bidding zone borders sufficiently ahead of the delivery period, and with different maturities of up to at least three years ahead. Market participants shall be able to exchange long term transmission rights (secondary markets).

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Commission proposal	Drafting Suggestions Comments
	FR: (Comments): The former point (3) becomes point (4)
1. By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:	BE: (Drafting): 1. Within 2 months after the adoption of this regulation By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall: BE: (Comments): The development process and approval procedure should be speed up. In fact, ENTSO-E should already be working on it right now. We also suggest that they do this in close cooperation in order to smoothen the evaluation and approval. EE: (Comments): NEMOs and other market participants should also take part in the development of virtual hubs in order to ensure that virtual hubs would meet the market needs.

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Commission proposal	Drafting Suggestions Comments
	PL: (Drafting): 1. By 1 December 2024 2027 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall: PL: (Comments): Indicated timeline is too short. Should the proposal to introduce virtual hubs lead to a necessity to amend FCA the provided deadline seems not sufficient for ENTSO-E to provide the proposal. Additionally, it seems that other stakeholders should be involved in the process to create virtual hubs, e.g. NEMOs. ES: (Drafting): 1. By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. ENTSO-E has to duly take into account the level of interconnectivity of the those Member States below the interconnection targets set for 2020 and 2030 in Regulation (UE) 2018/1999 of the Governance of the Energy Union. The proposal shall:

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	ES: (Comments): Spain has a scrutiny reservation on the impacts of art. 9, related to forward markets, which envisages virtual hubs and long term transmission rights to allow cross-border trade of financial products. For us, the main barrier to cross border trade is the lack of physical interconnection capacity, a critical issue that is not addressed in the Commission proposal. Virtual hubs should not hamper the price coupling nor the security of electricity supply in the Iberian peninsula. We are still assessing internally the impact of these provisions. In any case, a reference to ENTSO-E duly taking into account this circumstance when elaborating its methodology is needed. PT: (Drafting): By x of xxx 202x All TSOs shall submit to ACER, a proposal of implementation of already known improvements to the current auctioning of financial long-term transmission rights to be implemented by x xxx 202x. a) The improvements shall consist of but not limited to the following; i. Auctions for monthly, quarterly and yearly products; ii. Product maturities up to three years iii. Development of a secondary market;

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	iv. Possibility of adoption of FTR obligations; v. Full financial firmness with an agreed cost-recovery comfort from regulators b) Improvements that may be implemented on NRA decision shall also be included in the proposal; ii. Regional coordination and decision making for alternative measures or exemptions to TSOs. This would imply the acceptance of alternative long-term cross-zonal hedging products; iii. Market making deemed as complementary in case needed but TSOs not to get involved. By 1 December 2026 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, an assessment of the possibility for the establishment of regional virtual hubs for the forward market. The assessment shall consider the following items: a) the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs; b) the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria; c) a definition of financial long-term transmission rights from bidding zones to the virtual

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	hubs for the forward market; d) the maximisation of the trading opportunities for hedging products referencing the virtual hubs for the forward market PT: (Comments): The deadline depends on the expectations of this (new) regulation approval. Could be better to indicate “X months after the regulation publication/enter into force” The proposal of regional virtual trading hubs should be adequately evaluated. The virtual hub concept may reduce (fragment) liquidity in areas where such liquidity is already low and undermine the relevance of the underlying (index) in such areas. This measure is a disruptive solution and an impact assessment should precede a possible decision. Instead of a disruptive approach with long implementation times (5-10 years) based on Virtual Hubs (non-tested instruments), an evolution of the current set-up with known solutions (i.e. more frequent auctions, switch to obligations, etc.) could alleviate most of the current market flaws. IE:

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	(Comments): Generally welcome the establishment of regional virtual hubs for the forward market. CZ: (Drafting): 1. — By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall: CZ: (Comments): We propose deletion of art 9 as it has not been accompanied by any cost-benefit analysis, it's real outcome might be even contradictory towards the original good intention, e.g. increasing market liquidity and stabilising wholesale prices. Plus the ultimate decision shall be purely on ACER, without Member States having any say towards this significant change of the market functioning. The obligation for TSOs to offer transmission rights for a longer period than a year might be tricky, as currently TSOs have no information about their actual availability in this prolonged timeframe and they cannot guarantee their availability We deem that long-term transmission rights market can be finetuned even within the existing

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	legal framework of regulation 2016/1719 (FCA). DK: (Drafting): 1. By 1 December 2024⁴⁶ the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall: DK: (Comments): To allow for a realistic timeline on a proposal and assessment of regional virtual trading hubs, we propose a longer timeline. We understand that this is also an issue raised by TSOs. FR: (Drafting): 1. By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall: FR: (Comments): This virtual hub model remains largely a theoretical model that has not been the subject of an

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	impact study for an application at this level and whose added value compared to the current model has therefore not been demonstrated. Moreover, this model was the subject of an ACER policy paper in early 2022. This paper was submitted to a public consultation and received mostly negative reactions from stakeholders. There is no feedback on the implementation of such a virtual hub model to ensure that this system would effectively increase liquidity in the futures market. There is also a real difficulty in designing the zones covered by a virtual hub and particularly in cases where MS belong to more than one zone. Moreover, the proposal does not contain any market surveillance framework for such a virtual hub. For all these reasons, an much more efficient proposal is to improve the existing model and the liquidity of long-term rights, along the following lines: organize more frequent auctions for existing products, bring forward the auction dates in relation to the delivery period, and introduce products with longer maturities up to 3 years in advance, and allow a secondary market on transmission rights. HU (Drafting): <u>Suggestion 1</u> By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted

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	ESMA, and further consult with the forward market stakeholders a detailed assesment proposal for the establishment of regional virtual hubs for the forward market. The proposal detailed assesment shall: <u>Suggestion 2</u> 1. By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, and forward market stakeholders, a detailed assesment for the establishment of regional virtual hubs for the forward market. The detailed assesment shall evaluate the possible benefits and drawbacks of the aforementioned virtual hubs and shall contain a recommendation whether or not to implement such hubs. 2. Within six months of receipt of the detailed assesment on the establishment of the regional virtual hubs for the forward market, ACER shall decide about the implementation. 3. In case ACER decide to introduce the regional virtual hubs for the forward market, the ENTSO for Electricity shall submit to ACER a proposal for the establishment of regional virtual hubs for the forward market within an additional year. ENTSO for Electricity shall consult with ESMA and forward market stakeholders. The proposal shall:

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Commission proposal	Drafting Suggestions Comments
(a) define the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs;	PL: (Comments): The concept of virtual hubs is unclear. Should each bidding zone be part of a given virtual hub or hubs? Are virtual hubs to be constrained by the boundaries of CCRs? Can one bidding zone be part of a few virtual hubs? PT: (Drafting): (a) — define the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs; PT: (Comments): Refer to the new text proposed above. CZ: (Drafting): (a) — define the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs;

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	FR: (Drafting): a)——define the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs; HU (Drafting): (a)——define the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs; (a) investigate the possible positive and negative effects concerning the introduction of virtual hubs;
(b) include a methodology for the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such	PT: (Drafting): (b)——include a methodology for the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria;

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Commission proposal	Drafting Suggestions Comments
methodology shall be applicable to all virtual hubs and based on predefined objective criteria;	PT: (Comments): Refer to the new text proposed above. CZ: (Drafting): (b) — include a methodology for the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria; FR: (Drafting): (b) — include a methodology for the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria; HU (Drafting): (b) — include a methodology for the calculation of the reference prices for the virtual hubs for

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	the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria;
(c) include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market;	BE: (Drafting): (c) include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market, which is aimed at maximizing the available transmission capacity and will ensure sufficient firmness to the transmission right holders; BE: (Comments): These product should provide to the market a maximum of transmission capacity between zones at a sufficient firmness in order to create the right environment for long term cross zonal energy products at stable prices PL: (Comments): Please explain why the definition of FLTR is to be provided by the TSOs and not in the regulation or FCA Guidelines. PT:

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	(Drafting): e) — include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market; PT: (Comments): Refer to the new text proposed above. CZ: (Drafting): (e) — include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market; FR: (Drafting): (e) — include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market; HU (Drafting): (e) — include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market;

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(d) maximise the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term transmission rights from bidding zones to virtual hubs.	PT: (Drafting): d) — maximise the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term transmission rights from bidding zones to virtual hubs. PT: (Comments): Refer to the new text proposed above. CZ: (Drafting): (d) — maximise the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term transmission rights from bidding zones to virtual hubs. FR: (Drafting): (d) — maximise the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term transmission rights from bidding zones to

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Commission proposal	Drafting Suggestions Comments
	virtual hubs. HU (Drafting): (d) — maximise the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term transmission rights from bidding zones to virtual hubs.
	DK: (Drafting): 1a. By 31. December 2023 all TSOs shall submit to ACER and ESMA, a proposal of implementation of improvements to the current auctioning of financial longterm transmission rights to be implemented by 1 January 2024. 1) The improvements shall consist of but not be limited to the following: a) Auctions for monthly, quarterly and yearly products; b) Product maturities up to three years; c) Development of a secondary market. 2) Within three months of receipt of the proposal on improvements for the forward market, ACER and ESMA shall jointly evaluate it and either approve or amend it. The adopted proposal shall be published on ACER's website and is to be implemented by all TSOs within 3 months of the approval.

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Commission proposal	Drafting Suggestions Comments
	DK: (Comments): DK suggests a new paragraph to ensure swift implementation of already identified short-term measures to improve forward markets and auctioning of long-term transmission rights that will have a more immediate effect before introducing other more complex measures like virtual hubs.
2. Within six months of receipt of the proposal on the establishment of the regional virtual hubs for the forward market, ACER shall evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website.	BE: (Drafting): 2. Within six two months of receipt of the proposal on the establishment of the regional virtual hubs for the forward market, ACER shall evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity within a period of one month before adopting the amendments. The adopted proposal shall be published on ACER's website. BE: (Comments): The development and approval process should be much faster. This development should happen in parallel with the adoption of this regulation. NL:

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Commission proposal	Drafting Suggestions Comments
	(Drafting): 2. Within six months of receipt of the proposal on the establishment of the regional virtual hubs for the forward market, ACER shall evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. ACER will submit the proposal to the European Commission, accompanied by an assessment of the expected effects of adoption of the proposal. This assessment will at least include an assessment of likely effects on liquidity in relevant timeframes of the virtual hubs, and the affected bidding zones. The adopted submitted proposal shall be published on ACER's website. NL: (Comments): The Netherlands supports the intention to improve liquidity on forward markets, but notes that there currently is not a sufficiently detailed proposal to conduct a full assessment of likely effects of introducing the virtual hubs. Therefore the Netherlands proposes to add an extra assessment of the likely effects of introducing the virtual hubs, and a delegated act procedure to ensure council and parliament are consulted before final adoption of the proposal. PL: (Comments): Poland is of the opinion that while ACER should have an opportunity to amend the proposal it should also gained the approval of ENTSOe or at least majority of involved TSOs for the

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Commission proposal	Drafting Suggestions Comments
	amended proposal. PT: (Comments): Seems that the deadline is 1st June 2025, but depends on the approval date for this regulation (see previous comment) CZ: (Drafting): 2. Within six months of receipt of the proposal on the establishment of the regional virtual hubs for the forward market, ACER shall evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website. FR: (Drafting): Within six months of receipt of the proposal on the establishment of the regional virtual hubs for the forward market, ACER shall evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website. HU (Drafting):

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Commission proposal	Drafting Suggestions Comments
	Within six months of receipt of the proposal detailed assesment on the establishment of the regional virtual hubs for the forward market, ACER shall evaluate it and either if decided the introduction of the virtual hub by 1 December 2025 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, and further consult with the forward market stakeholders a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall: (a) define the geographical scope of the virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs; (b) include a methodology for the calculation of the reference prices for the virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria; (c) include a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market; (d) maximise the trading opportunities for hedging products referencing the virtual hubs

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	for the forward market as well as for long term transmission rights from bidding zones to virtual hubs.
	NL: (Drafting): 2.a The European Commission will submit the proposal to the Council and Parliament in the form of a delegated act. HU (Drafting): 3. Within six months of receipt of the proposal on the establishment of the regional virtual hubs for the forward market, ACER shall evaluate it and approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website.
3. The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council.	LT: (Comments): Definition of the “single allocation platform” is needed. ES: (Comments): Scrutiny reservation on the impact in Spain.

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	CZ: (Drafting): 3. — The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council. FR: (Drafting): — The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council. HU (Drafting): 3. 4.
4. The single allocation platform shall:	PL: (Comments): More information is needed on the reasoning behind the proposal to extend SAP competences. ES:

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	(Comments): Scrutiny reservation on the impact in Spain. CZ: (Drafting): 4. — The single allocation platform shall: FR: (Drafting): 4. — The single allocation platform shall: HU (Drafting): 4. 5.
(a) offer trading of long-term transmission rights between each bidding zone and virtual hub; where a bidding zone is not part of a virtual hub it may issue financial long-term transmission rights to a virtual hub or to other bidding zones that are	BE: (Drafting): (a) offer trading of a maximum of long-term transmission rights between each bidding zone and virtual hub; where a bidding zone is not part of a virtual hub it may issue financial long-term transmission rights to a virtual hub or to other bidding zones that are part of the same capacity calculation region;

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part of the same capacity calculation region;	PL: (Comments): Proposed changes do not reflect the obligation of TSO to issue long-term transmission rights or any other equivalent measure (as it was previously stated in article 9). Commission Staff working document states that the SAP would issue LTTR on behalf of TSOs. How does it corresponds to already established processes and calculation methods. Current wording makes it unclear what are TSOs obligations. In the case a bidding zone is a part of a virtual who is responsible for issuing financial long term transmission rights? CZ: (Drafting): (a) — offer trading of long term transmission rights between each bidding zone and virtual hub; where a bidding zone is not part of a virtual hub it may issue financial long term transmission rights to a virtual hub or to other bidding zones that are part of the same capacity calculation region; FR: (Drafting): (a) — offer trading of long term transmission rights between each bidding zone and virtual hub ; where a bidding zone is not part of a virtual hub it may issue financial long term

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	transmission rights to a virtual hub or to other bidding zones that are part of the same capacity calculation region; HU (Drafting): offer trading of long-term transmission rights between each bidding zone and virtual hub if established based on the detailed assesment; where a bidding zone...
(b) allocate long-term cross-zonal capacity on a regular basis and in a transparent, market-based and non-discriminatory manner; the frequency of allocation of the long-term cross-zonal capacity shall support the efficient functioning of the forward market;	LT: (Comments): TSOs allocate long-term cross zonal capacities depending on their capabilities. BE: (Drafting): (b) allocate a maximum of long-term cross-zonal capacity on a regular basis and in a transparent, market-based and non-discriminatory manner; the frequency of allocation of the long-term cross-zonal capacity shall support the efficient functioning of the forward market; CZ: (Drafting): (b) — allocate long-term cross-zonal capacity on a regular basis and in a transparent, market-based and non-discriminatory manner; the frequency of allocation of the long-term cross-zonal

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	capacity shall support the efficient functioning of the forward market; FR: (Drafting): (b) — allocate long term cross zonal capacity on a regular basis and in a transparent, market-based and non-discriminatory manner; the frequency of allocation of the long term cross zonal capacity shall support the efficient functioning of the forward market;
(c) offer trading of financial transmission rights that shall allow holders of these financial transmission rights to remove exposure to positive and negative price spreads, and with frequent maturities of up to at least three years ahead.	BE: (Drafting): (c) offer trading of financial transmission rights that shall allow holders of these financial transmission rights to ensure sufficient firmness to the capacity holders to support their forward commitments and remove exposure to positive and negative price spreads, and with frequent maturities of up to at least three years ahead. PL: (Comments): Are these financial transmission right the same instrument as financial long-term transmission rights? CZ: (Drafting):

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	(e) — offer trading of financial transmission rights that shall allow holders of these financial transmission rights to remove exposure to positive and negative price spreads, and with frequent maturities of up to at least three years ahead. FR: (Drafting): (e) — offer trading of financial transmission rights that shall allow holders of these financial transmission rights to remove exposure to positive and negative price spreads, and with frequent maturities of up to at least three years ahead.
5. Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges or transmission system operators to implement additional measures, such as	LT: (Drafting): 5. Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges or transmission system operators to implement additional measures, such as market-making activities, to improve the liquidity of the forward market. Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market

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market-making activities, to improve the liquidity of the forward market. Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power-generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such hedging activity may be limited to trades within a Member State or bidding zone.	participants, including owners of power-generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such hedging activity may be limited to trades within a Member State or bidding zone. LT: (Comments): Statement such as “shall be free to develop” do not add any value in this case. TSOs allocate long-term cross zonal capacities depending on their capabilities. In case TSO is obliged to perform market-making activities there should be compensation mechanism for the TSO set by the Regulator. PL: (Drafting): 5. Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges or transmission system operators to implement propose additional measures, after consultation with stakeholders, such as market-making activities, to improve the liquidity of the forward market.

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	PL: (Comments): It is unclear how NRA will decide on the existence of sufficient hedging opportunities. NRA may require TSO and power exchange to propose additional measure, which should be duly consulted with involved stakeholders in order to meet their needs so that the root of the problem with liquidity is addressed. PT: (Comments): Article 4(1)(15)? To which legislative act does this reference invoke? Is it Directive (EU) 2014/65? «(15) ‘financial instrument’ means those instruments specified in Section C of Annex I, including such instruments issued by means of distributed ledger technology;» It is not from this regulation, so it must be explicitly mentioned. Transmission System Operators should not be involved in forward markets. This is a financially regulated activity that requires a financial licence, which is not in the scope of system operation. The difference between transmission system operation and regulated markets functions in this topic is not clear, namely in market making activities. CZ: (Drafting):

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	5. — Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges or transmission system operators to implement additional measures, such as market-making activities, to improve the liquidity of the forward market. Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power-generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such hedging activity may be limited to trades within a Member State or bidding zone. FR: (Drafting): 5. — Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges or transmission system operators to implement additional measures, such as market-making activities, to improve the liquidity of the forward market.. Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to develop forward hedging products, including long-term forward hedging products, to provide market

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	participants, including owners of power generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such hedging activity may be limited to trades within a Member State or bidding zone. HU (Drafting): 5. 6.
(7) Article 18 is amended as follows:	
[a] paragraph 2 is replaced by the following:	
“2. Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, including	BE: (Drafting): 2. Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, including anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support the use of flexibility services, efficient investments including solutions to

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anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection”;	optimise the existing grid and facilitate storage and demand response and related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection”; BE: (Comments): Did the commission consider to include also a provision in this article to ensure that the availability of firm financial transmission rights should be backed up with sufficient financial support for TSO’s ? PT: (Drafting): “2. Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure, namely those stemming from social and environmental acceptance of licensing grid infrastructures, to provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, including anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and related research activities, and to facilitate innovation in the interest of consumers in areas

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	such as digitalisation, flexibility services and interconnection”; PT: (Comments): The costs of social and environmental acceptance of grid infrastructures and their licensing, namely under Regulation (EU) 2022/2577 (in particular Article 3(2) and Article 6), should be explicitly foreseen in order to avoid delaying the integration of RES and the development of the necessary flexibility. LU: (Drafting): “2. Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, including anticipatory investments, <u>apply the “energy efficiency first” principle</u>, increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection”; DK: (Drafting): “2. Tariff methodologies shall reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to

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	provide appropriate incentives to transmission system operators and distribution system operators over both the short and long run, including anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration, <u>including of renewable energy</u>, and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection”; DK: (Comments): DK finds that an integration of renewable energy is a priority that also will need to be reflected in the tariff structures. MT: (Comments):
[b] paragraph 8 is replaced by the following:	
“8. Transmission and distribution tariff methodologies shall provide incentives to transmission and distribution system	PL: (Drafting):

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operators for the most cost-efficient operation and development of their networks including through the procurement of services. For that purpose, regulatory authorities shall recognise relevant costs as eligible, shall include those costs in transmission and distribution tariffs, and shall introduce performance targets in order to provide incentives to transmission and distribution system operators to increase efficiencies in their networks, including through energy efficiency, the use of flexibility services and the development of smart grids and intelligent metering systems.”	“8. Transmission and distribution tariff methodologies shall may provide incentives to transmission and distribution system operators for the most cost-efficient operation and development of their networks including through the procurement of services. For that purpose, regulatory authorities shall recognise relevant costs as eligible, shall include those costs in transmission and distribution tariffs, and shall introduce performance targets in order to provide incentives to transmission and distribution system operators to increase efficiencies in their networks, including through energy efficiency, the use of flexibility services and the development of smart grids and intelligent metering systems.” PL: (Comments): It should be possible (but not obligatory) to introduce targets in selected areas of TSO or DSO operations to be achieved and incentives in tariff-setting rules in areas that will be considered relevant. PT: (Comments): In the ongoing regulation is only referred the distribution grid/network and now is included the transmission grid/network. Seems acceptable a wider scope for this purpose. However should be assessed the implications/impact on the regulatory framework, namely permissible advantages and/or incentives, with a final impact on network usage tariffs, especially in “Transmission”.

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	LU: (Drafting): “8. Transmission and distribution tariff methodologies shall provide incentives to transmission and distribution system operators for the most cost-efficient operation and development of their networks including through the procurement of services. For that purpose, regulatory authorities shall recognise relevant costs as eligible, shall include those costs in transmission and distribution tariffs, and shall introduce performance targets in order to provide incentives to transmission and distribution system operators to <u>apply the “energy efficiency first principle”</u>, increase efficiencies in their networks, including through energy efficiency, the use of flexibility services and the development of smart grids and intelligent metering systems.”
[c] in paragraph 9, point (f) is replaced by the following:	
‘(f) methods to ensure transparency in the setting and structure of tariffs, including anticipatory investments;’	
[d] in paragraph 9, the following point	

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(i) is added:	
'(i) incentives for efficient investments in networks, including on flexibility resources and flexible connection agreements.'	BE: (Comments): In Belgium this concept is applied, but provides insufficient firm capacity to the grid to incentivize investments in generation and storage capacity. TSO's should receive incentives to provide and improve firm access, not to lower their responsibilities.
[8] in Article 19, paragraph 2 is amended as follows:	IT: (Drafting): Offshore generation plant: It is proposed to translate this requirement not as a priority objective but as an option for the Member States within the framework of paragraph 3 of Article 19. IT: (Comments): The use of the congestion income for these compensations cannot be considered a priority objective for all Member States, assuming that for all the adequate dimensioning of the interconnection capacity concerns this type of generation.

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[a] point (b) is replaced by the following:	FR: (Drafting): {a}
(b) maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investments that are relevant to reduce interconnector congestion; or	BE: (Drafting): (b) maintaining or maximising and increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investments that are relevant to reduce interconnector congestion; or PL: (Drafting): (b) maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investments that are relevant to reduce interconnector congestion; or DK: (Comments):

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Commission proposal	Drafting Suggestions Comments
[b] the following point (c) is added:	FR: (Drafting): [b] the following point (c) is added:
‘(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.’	LT: (Comments): Using congestion income is not a cost-efficient way to support offshore generators in hybrid projects. Congestion income should not be used to finance support for generation projects, irrespective of the type of mechanism applied, as this implies an implicit and non-transparent subsidy paid by consumers. As an alternative solution, could be two-sided capability-based Contracts for Difference (CfDs) or financial CfDs, which decouple remuneration from actual injection. EE: (Comments): Compensating offshore generation plant operators through congestion income have its risks.

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	In the long-run congestion income might not be enough to cover the necessary costs for offshore plants. If this happens, then where will these costs be covered from? Additional clarity is needed on what is meant by stating that system operators have not made enough capacity available to the market. In such cases where the limitation has been planned and justified (announced ahead to the market), the obligation for paying compensation does not seem right. However, when the limitation is caused by unplanned event or a failure from the system operator's side the compensation seems justified. PL: (Drafting): compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.' PL: (Comments): Poland proposes to delete point c. Introducing a compensation of offshore generation plant operators in an offshore bidding zone could lead to a socialization of costs and therefore to minimization of social welfare. All technologies, whether offshore or onshore, should be

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	treated equally to ensure a level playing field. Treating offshore generation plant operators differently would be discriminatory. Such privileges can create better conditions for projects that are less beneficial from the overall electricity system needs (creating additional system costs or even limiting connection possibilities) thus inhibiting development of RES. PT: (Drafting): ‘(e) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.’ PT: (Comments): 1 - In the current setup (offshore renewables connected to large liquid bidding zones), a transmission access guarantee (TAG) is not necessary. In case an offshore renewable asset is curtailed due to a grid congestion, it will be compensated within the national curtailment or redispatch regimes, which is up to national regulation. 2 - There should be no priority dispatch for renewables (see Regulation (EU) 2019/943, Art.

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	12). The current rules on congestion income use maximise benefits for tariff payers and thus ensure a proportional, least-cost tariff to realize the infrastructure. Furthermore, congestion income sharing with producers is a non-proportionate hidden subsidy funded by the tariff payer (i.e. all consumers) going to one specific technology, which may be considered as discriminatory and, if anything, in the current context, it risks aggravating windfall profits not in the least because TAG can lead to overcompensation compared to the counterfactual. In case public support is needed, there are more cost-efficient, transparent and proportionate mechanisms such as 2-sided capability-based CfDs. In general terms we agree that the consideration of a specific priority objective, for the use of congestion rent revenues, related to offshore bidding zones may be disproportionate. In fact, under normal conditions, there does not seem to be a significant difference between an offshore bidding zone-bidding zone “Continental” interconnection and 2 continental bidding zones (nor the type of connection to land. It may or may not be in DC). In this sense, paragraph a) of article 19 (2) may also include these situations. A nuance in relation to offshore bidding zones may be the fact that the creation of these bidding zones is, in principle, based on the operationalization of hybrid offshore systems, insofar as the infrastructures connecting power stations to land are used as interconnections between countries in a logic to optimize the use of infrastructures. That is, the idea will be that at times when the infrastructure is not being used to bring production to land, it can be used as an electrical interconnection between countries. Thus, this differentiation can be, in part, justified by the fact that the electrical interconnection between countries is not, in theory, the

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	main function of the infrastructure. CZ: (Drafting): ‘(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.’ CZ: (Comments): We consider this proposal to be breaching principles of the internal energy market, e.g. principles for fees for grid connection principles (art. 18 (1) of 2019/943 regulation), against cross-subsidies (art. 59 of 2019/944 directive), independence of NRAs (art. 57 of 2019/944 directive). It does not represent a cost-effective tool addressing the problem but rather an implicit and intransparent subsidy. DK: (Drafting): ‘(c) compensating offshore generation plant operators in an offshore bidding zone if access to

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	interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market <u>as expected without capacity reductions</u>.’ DK: (Comments): It should be noted that generation capability that exceeds the maximum transmission capacity due to overplanting should not be compensated. Moreover, offshore bidding zone is not clearly defined. It might be relevant also to include bidding zones that include certain onshore areas or islands if the grid structure requires such areas to be included in the bidding zone. FR: (Drafting): ‘(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant

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	operator not being able to export its electricity generation capability to the market.² FR: (Comments): France supports the adaptation of the compensation conditions for offshore wind installations when they are connected to an electricity interconnection. However, this adaptation does not involve a provision in the European regulation applicable to all offshore installations. For offshore wind projects, France specifies the compensation conditions in each tender specification. In order to limit the compensation paid by the community, it is important that the compensation conditions are specified on a project-by-project basis according to a detailed economic analysis.
[9] The following chapter IIIa is inserted:	
Chapter IIIa	
Specific investment incentives to achieve the Union's decarbonisation objectives	

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Commission proposal	Drafting Suggestions Comments
Article 19a	IT: (Comments): On PPA we agree with the Commission's analysis which recognizes the credit risk as the main limit to the development of PPAs, which especially prevents small and medium-sized customers from accessing these contracts. From this point of view, the proposal envisages that the Member States may adopt instruments, including special guarantee schemes, precisely to break down the barriers that prevent small-medium consumers from concluding PPAs. It should also be noted that in the Explanatory memorandum reference is made to the organization of "public support tenders" concerning PPAs, suggesting a preference for a PPA market model based on auctions. CZ: (Comments): It shall be noted that sources with PPA shall not be excluded from participation on short-term markets and the balancing services market. Otherwise we risk having insufficient liquidity on this market and problems with the electricity grid balancing.
Power purchase agreements	

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Commission proposal	Drafting Suggestions Comments
1. Member States shall facilitate power purchase agreements ('PPAs') with a view to reaching the objectives set out in their integrated national energy and climate plan with respect to the dimension decarbonisation referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets.	PT: (Drafting): 1. Taking into account the European electricity interconnection target, Member States shall facilitate power purchase agreements ('PPAs') with a view to reaching the objectives set out in their integrated national energy and climate plan with respect to the dimension decarbonisation referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets. PT: (Comments): Strengthening interconnection capacity between bidding-zones is an essential instrument to promote IEM liquidity and efficiency. The merit of some instruments proposed by the EC (such as PPAs) is strongly conditioned if the current limitations are maintained. In this sense, the EC proposal should explicitly establish the need to comply with the value of the European target of 15% interconnection between MS in 2030. IE: (Comments): Power purchase agreements should incorporate granular matching of supply and demand and include support for flexibility and other technologies to avoid greenwashing and lower overall

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	system costs, All PPAs should include requirements for community benefits and community engagement. DK: (Drafting): 1. Member States shall facilitate power purchase agreements ('PPAs') <u>and other frameworks that provide long term price signals</u> with a view to reaching the objectives set out in their integrated national energy and climate plan with respect to the dimension decarbonisation referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets. DK: (Comments): DK finds that PPA's should not be promoted above other instruments which provide long-term price signals, as PPA's are traded bilaterally and thereby outside the longterm market withdrawing liquidity, especially from forwardmarkets. Furthermore, they can cause challenges to the balance in the electricity system, making it more difficult and more expensive for transmission system operators to secure balancing. FR:

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	(Drafting): 1. Member States shall facilitate power purchase agreements ('PPAs') with a view to reaching the objectives set out in their integrated national energy and climate plan with respect to the dimension decarbonisation referred to in point (a) of Article 4 of Regulation (EU) 2018/1999 and to supporting the competitiveness of the Union's businesses who face international competition, while preserving competitive and liquid electricity markets. FR: (Comments): In addition to the decarbonation objective, PPAs can be a tool to address the need of stability et previsibility of electricity prices for the industry, especially energy-intensive users that face international competition. PPAs are crucial to reach i) carbon neutrality ii) decarbonisation of the industry iii) providing long term signals to producers to secure revenues.
	BE: (Drafting): Member States may provide in a regulatory framework which enables the sell back of the

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	volume contracted under CfDs to consumers or suppliers using a competitive “back-to-back” tender. BE: (Comments): Should the Guarantee scheme be covered by the government or by commercial solution? FR: (Drafting): 1bis. Member States shall encourage that PPAs contracts reflect the conditions under which the producer generates electricity including its cost of production, while not preventing competition between producers. National regulatory authorities shall provide guidelines on the condition of conclusion of such contracts. FR: (Comments): In the absence of any regulatory tools, price will tend to be fixed by the cost of fossil fuels as it is the case today. The text should encourage Member States to obtain that such contracts reflect production costs. Each national regulatory authority shall provide guidelines on the condition of conclusion of such contracts
2. Member States shall ensure that	LT:

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instruments such as guarantee schemes at market prices, to reduce the financial risks associated to off-taker payment default in the framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and are not in financial difficulty in line with Articles 107 and 108 TFEU. For this purpose, Member States shall take into account Union-level instruments. Member States shall determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria.	(Comments): Need for clarification on what is meant by “Union-level instruments”. PL: (Drafting): 2. Member States shall ensure may consider that instruments such as guarantee schemes at market prices, to reduce the financial risks associated to off-taker payment default in the framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and are not in financial difficulty in line with Articles 107 and 108 TFEU. For this purpose, Member States shall should take into account consideration Union-level instruments. Member States shall determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria. PL: (Comments): The provision should not impose a strict obligation for MS to introduce such guarantee schemes, as the choice of specific public aid instruments should eventually be with MS, based on its strategic needs, especially as it is related to the fiscal capacity of MS. Furthermore, it is unclear what exactly “guarantee schemes at market prices” means.

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	IT: (Drafting): “Member States shall ensure that instruments, including guarantee schemes, to reduce the financial risks associated to off-taker payment default and to the seller default in the framework of PPAs are in place and accessible to consumers that face entry barriers to the PPA market and are not in financial difficulty.” IT: (Comments): The financial risk relates both the seller and the buyer. Therefore, MS shall ensure guarantee schemes for both risks IE: (Comments): Member State guarantee schemes should be optional and not obligatory. LU: (Drafting): 2. Commission and Member States shall ensure that instruments such as guarantee schemes at market prices, to reduce the financial risks associated to off-taker payment default in the framework of PPAs and other risks such as an indexation to the spot market are in

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	place and accessible to customers that face entry barriers to the PPA market and are not in financial difficulty in line with Articles 107 and 108 TFEU. For this purpose, Member States shall take into account Union-level instruments. Member States shall determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria. LU: (Comments): Derisking instruments should cover a broader range of risks. The obligation should be for Member State, but also for the Commission since EU level instruments may prove more effective than national ones. DK: (Drafting): 2. Member States may choose to implement instruments such as guarantee schemes at market prices or other alternative instruments, to reduce the financial risks associated to off-taker payment default in the framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and are not in financial difficulty in line with Articles 107 and 108 TFEU. For this purpose, Member States shall take into account Union-level instruments. Member States shall determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria.

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	It is in the competency of Member States to assess whether customers face entry barriers to the PPA market. Furthermore Member States decide how to carry out the assessment. DK: (Comments): It should be clarified, that it is up to the Member States to assess, whether there are entry barriers to the PPA-market, and that Member States have the flexibility to choose how to assess this, which is also consistent with the Renewable Energy Directive art. 15(8). It is especially important for Member States to have the flexibility to choose, what instruments are used, if the presence of entry barriers are detected by the Member States. As the COM has explained this could also be just existing market tools available and thus not schemes that the MS are implementing.
3. Guarantee schemes for PPAs backed by the Member States shall include provisions to avoid lowering the liquidity in electricity markets and shall not provide support to the purchase of generation from	LT: (Comments): LT takes scrutiny reservation. Proposals for guarantee schemes for PPAs backed by the Member States lacks of clarity which market participants are entitled for state-backed guarantee schemes. Why MS should provide guarantees for market participants which clearly

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fossil fuels.	demonstrate poor financial, managerial skills and results? BE: (Comments): How can/should MS ensure that PPA's will not decrease liquidity ? PL: (Drafting): 3. Guarantee schemes for PPAs backed by the Member States shall include provisions to avoid lowering the liquidity in electricity markets and shall not provide support to the purchase of generation from fossil fuels. Member States are allowed to introduce guarantee schemes for PPAs. In case guarantee schemes are established, they should include provisions to avoid lowering the liquidity in electricity markets and shall not provide support to the purchase of generation from fossil fuels. DK: (Drafting): 3. Guarantee schemes for PPAs or comparable instruments related to other products, such as those traded on forward markets, that Members States choose to implement to remove unjustified barriers backed by the Member States shall include provisions to avoid lowering the liquidity in electricity markets and shall not provide support to the purchase of generation from

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	fossil fuels. To this end, PPA's shall be financially settled, if backed by a Member state scheme. DK: (Comments): Schemes chosen by Member States can be related to other products as well. Such schemes should prevent lowering liquidity as well.
4. In the design of the support schemes for electricity from renewable sources, Member States shall allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and endeavour to make use of evaluation criteria to incentivise the access to the PPA market for customers that face entry barriers. In particular, such evaluation criteria may give preference to bidders presenting a signed PPA or a commitment to sign a PPA for part	LT: (Comments): Need for clarification on what is meant by “participation of projects” and to which project does it refers? PL: (Drafting): In the design of the support schemes for electricity from renewable sources, Member States shall allow should consider the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and endeavour to make use of evaluation criteria to incentivise the access to the PPA market for customers that face entry barriers. In particular, such evaluation criteria may give preference to bidders presenting a

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of the project's generation from one or several potential buyers that face entry barriers to the PPA market.	signed PPA or a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face entry barriers to the PPA market. PL: (Comments): It is to be borne in mind that PPAs and competitive bidding process are – from a generator's perspective – to some extent competing solutions to be pursued, therefore the choice between them should be left unrestricted to the generators, based on their business models and needs. We believe that PPAs sourcing should be boosted by eliminating undue barriers and ensuring seamless and predictable business environment, but not via imposing this form – by means of unclear preferences in the competitive bidding process – on business activity on generators. ES: (Drafting): Deletion of this paragraph. ES: (Comments): Support schemes such as CfDs shall not be subject to additional criteria for those plants that have signed PPAs. That introduces a market distortion that is not economically efficient. Thus, Spain proposes to remove this paragraph..

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	CZ: (Drafting): 4. In the design of the support schemes for electricity from renewable low-carbon sources, Member States shall allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and endeavour to make use of evaluation criteria to incentivise the access to the PPA market for customers that face entry barriers. In particular, such evaluation criteria may give preference to bidders presenting a signed PPA or a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face entry barriers to the PPA market. DK: (Drafting): 4. In the design of the support schemes for electricity from renewable sources, Member States shall may allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and endeavour to make use of evaluation criteria to incentivise the access to the PPA market for customers that face entry barriers. In particular, such evaluation criteria may give preference to bidders presenting a signed PPA or a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face entry barriers to the PPA market. DK:

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	(Comments): It should be up to the member states to choose the role of PPA's regarding support schemes, as it should be avoided to create incentives which burdens the system for both producers and consumers. It is important that this does not become the main evaluation criteria, as it may undermine the most economic selection of bids in the public tenders. FR: (Drafting): 4. In the design of the support schemes for electricity from renewable sources, Member States shall allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements and endeavour to make use of evaluation criteria to incentivise the access to the PPA market for customers that face entry barriers, or need PPA to securize affordable prices in the context of international competition. In particular, such evaluation criteria may give preference to bidders presenting a signed PPA or a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face entry barriers to the PPA market or are highly exposed to international competition on the basis of the EC carbon leakage list exposed in EU 2019/708.

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	FR: (Comments): PPAs with favourable prices for industries facing international competition should be encouraged by Member States. Recital (29) of the Draft Regulation cites SMEs as the example of actors facing entry barriers, but another key concern is non-SMEs industries that need long-term visibility to make investments in the EU.
5. PPAs shall specify the bidding zone of delivery and the responsibility for securing cross-zonal transmission rights in case of a change of bidding zone in accordance with Article 14.	PL: (Drafting): 5. — PPAs shall specify the bidding zone of delivery and the responsibility for securing cross-zonal transmission rights in case of a change of bidding zone in accordance with Article 14. PL: (Comments): PL does not support imposing cross-zonal dimension of PPA agreements. PT: (Drafting):

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	5. PPAs shall specify the bidding zone of delivery and the responsibility for securing physical cross-zonal transmission rights in case of a change of bidding zone in accordance with Article 14. PT: (Comments): Financial transmission rights do not solve underlying physical capacity shortages and may lead to increased risks when there are price differences between bidding zones. IE: (Comments): PPAs should also specify the matching of supply and demand taking into account grid constraints, within zone and cross zonal transmission rights to avoid greenwashing. DK: (Comments): Member States do not have direct influence on private contract design. It might be necessary to define a fallback clause that lays out what happens in case that the parties do not specify responsibility for securing transmission rights.
6. PPAs shall specify the conditions under which customers and producers may	LT:

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exit from PPAs, such as any applicable exit fees and notice periods, in accordance with Union competition law.	(Comments): Securing cross-zonal transmission rights shall be securing via market mechanisms. PL: (Drafting): 6. PPAs shall specify the conditions under which customers and producers may exit from PPAs, such as any applicable exit fees and notice periods, in accordance with Union competition law. The conditions, such as any applicable exit fees and notice periods, in accordance with Union competition law, under which customers and producers may exit from PPAs may become part of the PPA contract. PL: (Comments): As mentioned above, PL opposes overregulating PPAs, as flexibility in this respect should be provided to contracting parties. DK: (Comments): Member States do not have direct influence on private contract design. It might be necessary to

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	define a fallback clause that lays out what happens in case that the parties do not specify fees and notice periods.
Article 19b	IT: (Comments): On CFD Support schemes for new investments in generation wind, solar, geothermal, hydropower, nuclear : It is proposed to request a derogation from the CFD obligation in the case of incentives concerning plants with a power not exceeding a predetermined threshold to be agreed.
Direct price support schemes for new investments in generation	ES: (Drafting): Direct price support schemes for new investments in generation and existing generation plants IE: (Comments): It is important that changes proposed to existing CFD schemes are proportionate and don't delay the acceleration of renewables. Specifically Article 19b requires that revenues from CFD schemes are distributed to all consumers on the same basis per MWh consumed; this

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	would require a substantial legislative change to the relevant legislation in Ireland as well as State Aid approval which would delay further auction rounds. This is not considered necessary or proportionate. The basis for allocation of revenue from CFDs should be left to Member States to determine. CZ: (Comments): It shall be noted that sources with CfDs shall not be excluded from participation on short-term markets and the balancing services market. Otherwise we risk having insufficient liquidity on this market and problems with the electricity grid balancing.
1. Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall take the form of a two-way contract for differences. New investments for the generation of electricity shall include investments in new power-generating facilities, investments aimed at repowering existing power-generating facilities,	LT: (Comments): Article 19b “Direct price support schemes for new investments in generation” paragraph 1 has a rather confusing provision. Second sentence of paragraph 1 states that “New investments for the generation of electricity shall include investments in new power-generating facilities, investments aimed at repowering existing power-generating facilities, investments aimed at extending existing power-generating facilities”. Does this mean that support schemes could be applicable for new investments committed to existing (old) power-generating facilities to upgrade and prolong life? Does this mean that direct price support schemes could be applicable for existing power-generating facilities after their pay-back period expiration? Or expiration of the previously applied support scheme?

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investments aimed at extending existing power-generating facilities or at prolonging their lifetime.	BE: (Comments): Are other support schemes for investments (e.g. calls) possible? How will repowering, extending existing power-generating facilities or prolonging their lifetime be defined? There is no lower threshold: does this imply that ALL investments (10 kW) are included and other supporting instruments are no longer allowed for new investments (even for small/medium projects) (cfr. call groene stroom) Are auctions still allowed to ensure a cost-effective support Must two-way contracts be symmetrical or not? How to avoid that this CfD is a ‘blanco cheque’ – how to fix the ‘strike price’ EE: (Comments): Additional criteria should apply for investments aimed at repowering existing plants. NL: (Drafting):

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	1. Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall may take the form of a two-way contract for differences. New investments for the generation of electricity shall include investments in new power-generating facilities, investments aimed at repowering existing power-generating facilities, investments aimed at extending existing power-generating facilities or at prolonging their lifetime. NL: (Comments): NL proposes to make application of two-sided CfD's optional. Although 2-sided CfD's are a useful instrument, limiting Member States' possibilities to give support in other ways takes away necessary flexibility to adapt support schemes to (changing) national circumstances. NL recognises that limiting excess profits can be useful, from the perspective of spending public money efficiently. We agree on the end (efficiency) but would like to advocate for flexibility towards the means (2-sided CfDs, SDE++ and all shades of grey in between). In this context, we would also like to highlight the importance of maintaining important market incentives for supply and demand. NL would support more clear criteria for 'rewiring, 'extending' and 'prolonging their lifetime'.

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	PL: (Drafting): Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall take the form of a two-way contract for differences or other forms of support having a similar effect. PL: (Comments): Member States should have flexibility when designing two-way contracts for difference, for example with regards to prices, volumes, duration, so they can be adjusted to specific technologies and projects. It is also reasonable to allow Member States to grant other, similar forms of direct price support, which could achieve the same objectives (as mentioned in Commission's SWD, page 32 – “or a similar contractual formulation”). As mentioned in the recitals, the limitation should be without prejudice to the possible exemption for small-scale installations and demonstration projects. It should be highlighted that newly amended GBER in art. 42 and 43 foresees possibility of Feed-in Premiums for the specific list of installations, in particular for those below 1 MW. Similar principles are ensured by CEEAG.

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	PT: (Comments): The definition associated with “new investments” seems very broad: “New investments for the production of electricity must include investments in new energy generating installations, investments aimed at repowering existing generating installations, investments aimed at expanding existing generating installations or extending their life .» It also seems to be necessary to fully clarify what capacities and energy can be included in these contracts, namely when referring to increases in existing ones or extension of useful life, since a “strike price” will be defined that may be different from the market price at the time of subscription. LU: (Drafting): 1. Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall may take the form of a two-way contract for differences. New investments for the generation of electricity shall include investments in new power-generating facilities, investments aimed at repowering existing power-generating facilities, investments aimed at extending existing power-generating facilities or at prolonging their lifetime.

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	LU: (Comments): We do not support a mandatory approach to CfDs and we would like to retain the flexibility to mobilize other instruments where appropriate. In addition, the measure should not apply to existing generation in order to preserve regulatory stability. DK: (Drafting): Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall may take the form of a two-way contract for differences or other relevant forms. Member States can decide the specific design of these. New investments for the generation of electricity shall include investments in new power-generating facilities, investments aimed at repowering existing power-generating facilities, investments aimed at extending existing power-generating facilities or at prolonging their lifetime. DK: (Comments): We strongly disagree with the proposal to limit choice of support scheme to CfDs. Member

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	States should be able to choose, how to promote the establishment of new energy generation especially when it comes to renewable energy where many different schemes could be relevant. CfDs should be voluntary, even if Member States see the need for support. It is also essential that it will not affect existing capacity or have retroactive effect. We suggest that the wording of the proposal considers how barriers for green hydrogen production linked to electricity production can be avoided. Therefore, it is preferred if electricity generation combined with green hydrogen and PtX-generation is exempted in order to enable the PtX-sector to provide flexibility in the electricity system and help decarbonize the hard-to-abate sectors. Other types of energy storage and consumption coupled directly to electricity generation should be exempted as well.
2. Paragraph 1 shall apply to new investments in generation of electricity from the following sources:	ES: (Comments): What happens to existing schemes to support new facilities in cases where MS have them in place? LU: (Drafting):

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	2. Paragraph 1 shall apply to new investments in generation of electricity from the following non-dispatchable sources : LU: (Comments): We do not need a list of technologies but objective criteria justifying the application of the measure to some type of generation. CZ: (Drafting): 2. Paragraph 1 shall apply to new investments in generation of electricity from the following low-carbon sources, meeting sustainability criteria: CZ: (Comments): There are other low-carbon technologies that are not in the list (such as H2, biogas, biomass, CCS-equipped technologies), yet can make significant contribution to decarbonisation and provide vital sources for electricity grid management and they shall not be omitted. We shall respect principle of technological neutrality. That is why we propose excluding explicit list of technologies but rather setting clear eligibility criteria. DK:

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	(Drafting):
(a) wind energy;	LU: (Drafting): (a) — wind energy; CZ: (Drafting): (a) — wind energy;
(b) solar energy;	LU: (Drafting): (b) — solar energy; CZ: (Drafting): (b) — solar energy;

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(c) geothermal energy;	LU: (Drafting): (c) geothermal energy; CZ: (Drafting): (c) geothermal energy;
(d) hydropower without reservoir;	IE: (Comments): Why is hydropower with reservoir excluded? LU: (Drafting): (d) hydropower without reservoir; CZ: (Drafting): (d) hydropower without reservoir;

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(e) nuclear energy;	EE: (Drafting): (f) biomass. EE: (Comments): We would like to add biomass in the list of sources where two-way CfD should apply. At the moment, choice of the list is still unclear. LU: (Drafting): (e) — nuclear energy; CZ: (Drafting): (e) — nuclear energy;
3. Direct price support schemes in the form of two-way contracts for difference shall:	BE: (Comments):

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	Does that mean that for electricity produced from the sources listed in paragraph 2 of this article (renewables), only two-way contracts for difference are allowed as support schemes? But when it does not concern electricity, article 4 of the RED directive still applies? Why the Commission wants to only impose two-way contract for differences as support schemes for electricity produced from renewable sources? Who defines the ‘strike price’. Is it the MS who sets up the support scheme? NL: (Drafting): 3. Direct price support schemes in the form of two-way contracts for difference shall: FR: (Drafting): 3. Direct price support schemes in the form of two-way contracts for difference, as well as price cap mechanisms that may be implemented at Member-States level shall : FR: (Comments): The flat redistribution approach could be as well imposed on other inframarginal rent redistribution schemes designed by Member-States, to ensure that they similarly limit the impact on the Single Market.

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	France would ensure that such redistribution does not constitute any State aid for all types of consumers, and that all Member States are free to organize distribution of excess revenues with respect to (a) and (b)
(a) be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);	BE: (Drafting): (a) be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed); BE: (Comments): Why should it be distributed to all final electricity customers. Why not more dedicated? Vulnerable customers or energy efficiency programs? In order to allow a market model in which a central counterparty sells back the volume contracted under CfDs to consumers or suppliers using a competitive “back-to-back” tender by offering consumer PPAs the New Art. 19b “Support schemes for new investments in generation” would be amended. In paragraph 3, the design elements are not coherent amongst themselves: distribution of excess revenues to all consumers based on share of overall

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	consumption will not allow bringing the CfD volumes to organised markets to offer hedging opportunities tailored to consumers / supplier needs. It will also likely desincentivise consumers to shift their consumption when prices are high. EE: (Drafting): (a) be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed) or can be used to compensate the support scheme when market price is below the strike price or used for projects which create socio-economic benefits and bring down electricity prices for example demand response; EE: (Comments): How will the revenues be distributed to consumers who consume electricity from neighbouring countries? It should be possible to use the revenues to finance the two-way CfD when the market price is below the strike-price in order to enable final electricity customers to benefit from low prices as well. Member States should be able to use the revenues also for projects which create socio-economic benefits and decrease electricity prices for final consumers like for example demand response. NL:

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	(Drafting): (a) may be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed); NL: (Comments): In principle the collecting of excess profits can be a useful mechanism to limit overstimulation and excess profits, but NL likes to keep flexibility on its application. Member states should for example also be able to use funds to invest in new renewables, grids. Moreover we have serious concerns regarding the practical implementation and execution of redistribution of revenues as envisaged here. PL: (Comments): Apart from the proposed method of redistribution, MS should be able use the collected revenue for the purpose of: (i) compensating power generating facilities in the event that the market price will be below the strike price; (ii) supporting investments in low-emission power generation sources; or (iii) other forms of distribution to final electricity customers. ES:

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	(Drafting): (a) be designed so that the revenues or costs collected when the market price is above or below the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed); IE: (Comments): This should be left to Member States to determine as per Article 9 of the Regulation on the Emergency Intervention to Address High Energy Prices regarding distribution of revenues i.e: <i>Member States shall ensure that all surplus revenues resulting from the application of the cap on market revenues are employed to finance measures in support of final electricity customers that mitigate the impact of high electricity prices on those customers, in a targeted manner.</i> <i>2. The measures referred to in paragraph 1 shall be clearly defined, transparent, proportionate, non-discriminatory and verifiable and shall not counteract the reduction</i>

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	<i>obligation of gross electricity consumption provided for in Articles 3 and 4.</i> Etc. Requiring revenues to be distributed equally to all customers based on their share of consumption risks unintended consequences and potentially could result in higher costs to domestic consumers. It could also lead to legislation, administration and state aid changes to existing CFD support schemes for renewables which would have the effect of slowing down those schemes and frustrating the overall objective of accelerating renewables. DK: (Drafting): (a) — be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed); DK: (Comments): In general, there should be flexibility for Member States to use revenues as see fit, as we are skeptic towards earmarking.

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Commission proposal	Drafting Suggestions Comments
	MT: (Comments): This provision does not seem to cater for the situation of all Member States, in particular Malta, which fully relies on the wholesale market of a neighbouring Member State to meet a share of its electricity demand. The proposed text does not provide a mechanism how consumers purchasing electricity from neighbouring Member States would also benefit from the lower RES prices.
(b) ensure that the distribution of the revenues to final electricity customers is designed so as not to remove the incentives of consumers to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers;	NL: (Drafting): (b) ensure that the any distribution of the revenues to final electricity customers is designed so as not to remove the incentives of consumers to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers; LU: (Drafting):

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	(b) — ensure that the distribution of the revenues to final electricity customers is designed so as not to remove the incentives of consumers to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers; LU: (Comments): Member States should retain the right to use the revenues for other purpose than a horizontal intervention to all consumers (targeted intervention, support to the deployment of renewable energy, other budgetary commitments). FR: (Drafting): ensure that the distribution of the revenues to final electricity customers is designed so as not to remove the incentives of provides incentives to consumers to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers FR: (Comments): Clarification proposal : redistribution shall actively contribute to the modulation of consumption. MT:

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	(Comments):
	NL: (Drafting): (c) Be designed in a way to retain adequate incentives for producers of electricity to respond to market price signals, through making use of a separate minimum and maximum price, and preventing subsidization in case of negative prices. ES: (Drafting): 4. Furthermore, Member States may establish a two-way contract for difference at a regulated price strike for existing non-contestable technologies. The duration of the two-way contract for difference contract will be set to match the remaining useful lifetime of the generation asset or any public concession to operate the asset. National competent authorities shall: (a). Identify non-contestable generation assets. (b). Determine the strike price of the contract for difference. Such strike price must allow non-contestable assets to recover a reasonable rate of return on investment. ES: (Comments): Some technologies are non-contestable in several MS and, in such cases, existing generators

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	are in a position to obtain supra-competitive profits, as rents cannot be competed away by new entry. In such cases, the European legal framework should allow MS to sign CfDs with those generators at a regulated strike price. In addition, for flexible generators, the design of the CfD should include some pool price exposure, in order to incentivise them to produce during hours of high prices. In the context of high electricity prices, these contracts could immediately reduce prices for consumers, and provide generators with regulatory certainty. We propose to reflect this in the text by adding a new par. 4 in article 19b. DK: (Drafting): (c) be designed to preserve incentives for generators to operate and participate efficiently in the day-ahead, intraday, balancing and potential flexibility markets. DK: (Comments): In line with the above perceived goal for (b) we would also want to preserve incentives for generators to be systemfriendly and to be active in the short term marketes.
Article 19c	IT: (Drafting):

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Commission proposal	Drafting Suggestions Comments
	It is proposed to delete paragraphs 4,5,6,7 IT: (Comments): We acknowledge the importance of a flexibility needs assessment at MS level. However, the proposed process seems long and burdensome, as it would be based on a methodology to be submitted by ENTSOE and approved by ACER, and introduces the unacceptable risk that flexibility support mechanisms are introduced too late compared to the increasingly immediate needs of the electricity system.
	DK: (Drafting): DK option 1: alternative proposal Assessment of flexibility potential 1. By 1 January 2026 and every two years thereafter, each Member State shall assess and draw up a report on the flexibility potential from demand side response and energy storage for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, contributing to the stability and reliability of the system and the efficient management and development of electricity networks, and taking into account the integration of different sectors. 3. The report shall be based on the analysis of the potential flexibility contributions of different

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	segments at seasonal, daily and hourly intervals, including as a minimum demand side and energy storage solutions of different types, e.g. PtX, datacenters, electric vehicles, heat storage, batteries, compressed air energy storage etc. The assessment referred to in paragraph 1 shall be carried out on the basis of a methodology developed by the Member State in consultation with system operators and all relevant system users. 4. Member States shall submit the assessment referred to in paragraph 1 to the Commission and publish them. On the basis of the reports, the Commission may issue recommendations for a best practice methodology, taking into account of national specificities. DK: (Comments): Denmark suggests several alternative proposals regarding article 19 c. As option 1, Denmark suggests that Member States assess flexibility <u>potential</u> instead of flexibility <u>need</u>. Flexibility need can in its nature be infinite while flexibility potential takes into account the technical and economic possibilities of being flexible. Flexibility potential will also take into account the state of digitalisation in the Member State. Establishing an estimate of the flexibility potential at seasonal, daily and hourly intervals 5-10

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	years ahead to cover a given flexibility need at a given time in a technically feasible and cost-efficient manner is an important tool for the TSO and DSO's in their analyses of the electricity system and the efficient management and development of their networks. The assessment would be carried out on the basis of an analysis of the potential flexibility contributions of different segments, for example heat pumps of different varieties, green hydrogen production, datacenters, electrical vehicles of different varieties, different types of energy storage etc. on the basis of a methodology to be developed at Member State level. The analysis could be used both at TSO and DSO level. For example in connection with TSO yearly assessment of security of supply and DSOs development of network development plans.
Assessment of flexibility needs	PL: (Comments): These provisions should be kept in coherence with the currently developed Network Code on Demand Response. We have doubts whether there is a need to put in place a separate methodology for the analysis by transmission and distribution system operators of the flexibility needs which would require a lengthy regulatory process involving many actors (TSOs/DSOs, ENTSO-E, EU DSO Entity, NRAs, ACER). In any case, the proposal provides too short deadlines for TSOs and DSOs to develop and submit for approval methodologies related to assessing flexibility needs (until March 1, 2024). The deadline should be set as at least two years from the entry into force of the Regulation.

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	ES: (Comments): The text in relation to flexibility needs and other related aspects (targets...) shall reflect the possibility of competent authorities other than the national regulatory authority to approve any measure in this respect as it is clearly related to security of supply issues under the competence of MS. We propose to amend the text of this article to reflect this.
1. By 1 January 2025 and every two years thereafter, the regulatory authority of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that	BE: (Drafting): 1. By 1 January 2025 2024 and every two years thereafter, the regulatory authority of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3. BE: (Comments):

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Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3.	We propose to delete the last sentence as we feel that this is redundant. NL: (Drafting): 1. By 1 January 2025 and every two years thereafter, the regulatory authority, or another relevant organization of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3. NL: (Comments): Member states should be able to ask for example TSOs to conduct this task. Especially since it makes sense to combine this report with resource adequacy assessments. PL: (Drafting): By 1 January 2025 2026 and every two years thereafter ES:

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Commission proposal	Drafting Suggestions Comments
	(Drafting): 1. By 1 January 2025 and every two years thereafter, the regulatory authority or, where a Member State has designated another competent authority for that purpose, such designated competent authority, of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3. PT: (Drafting): 1. By 1 January 2025 and every two years thereafter, the regulatory authority of each Member State shall assess and draw up a report within the scope of the European Resource Adequacy Assessment (ERAA), on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3. PT: (Comments):

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Commission proposal	Drafting Suggestions Comments
	The ERAA is a pan-European monitoring assessment of power system resource adequacy of up to 10 years ahead, in compliance with the Regulation (EU) 943/2019 and Regulation (EU) 941/2019 ('Risk Preparedness'). It is based upon state-of-the-art methodologies and probabilistic assessments, aiming to model and analyse possible events which can adversely impact the balance between supply and demand of electric power. It is an important element for supporting qualified decisions by policy makers on strategic matters, such as the introduction of capacity mechanisms and flexibility support schemes. We recommend that the assessment of flexibility needs be duly framed in the ERAA methodology (as is already the case with capacity mechanisms), in order to avoid overlapping studies and ensure consistency of results. The TSO/(Electricity) System Manager as also a crucial role on this issue. At least should be included the need to have collaboration or a joint work between regulators and TSO/ System Manager IE: (Drafting): 1. By 1 January 2027 and every two years thereafter, the regulatory authority of each Member State shall taking into account the ERAA and any national adequacy assessments, assess and draw up a report on the need for flexibility in the electricity system for a period of at least 10 years, in view of the need to cost effectively achieve security of supply and

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	decarbonise the power system, taking into account the integration of different sectors. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3. IE: (Comments): Member States which apply a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design of the capacity mechanism. I find the wording a bit unclear - I'm not sure whether this is requiring us to introduce additional criteria/features, or just requiring us to consider it? If it's the former, then I think it would be good to insert "if appropriate" or "if necessary" at the end of the sentence DK: (Drafting): 1. By 1 January 2025 2026 or at the latest 2 years after ACERs approval of the methodology and every two years thereafter, the regulatory authority of each Member State or another authority designated by the Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to

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	cost effectively achieve security of supply and decarbonise the power system, contributing to the stability and reliability of the system and the efficient management and development of electricity networks, and taking into account the integration of different sectors. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 2 and using the methodology pursuant to paragraph 3. DK: (Comments): As option 2, Denmark suggest amendments to the proposed article 19 c, para. 1. FR: (Drafting): 1. By 1 January 2025 and every two years thereafter, the regulatory authority or the TSO of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors.

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	FR: (Comments): TSOs are already studying security of supply and this would be useful to give some freedom to member states to choose which actor assess and draw this report on the need for flexibility. In any case, the report would have to be approved by the regulatory authority of the member state. MT: (Comments): The data and assessment for the preparation of the report is to be provided by DSO's and TSOs [article 19c(3)]. MT notes that the first report must be published by 1 January 2025 whereas the methodology must be approved by ACER by 1 June 2024. The timeframes appear to be tight wherein only 6 months for the assessment and report preparation are being allotted. At least one year should be allowed between the publication of methodology.
	NL:

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Commission proposal	Drafting Suggestions Comments
	(Drafting): 1a. Where member states carry out national resource adequacy assessments as meant in article 20 of this regulation, they may combine this with the assessment of flexibility need as meant in article 19c paragraph 1. NL: (Comments): The Netherlands sees large overlap between the assessment of resource adequacy, which should also assess whether flexibility needs are adequately fulfilled. For uniformity, and to prevent unnecessary doubling of work, it would be good to integrate the two assessments.
2. The report shall include an evaluation of the need for flexibility to integrate electricity generated from renewable sources in the electricity system and consider, in particular, the potential of non-fossil flexibility such as demand side response and storage to fulfil this need, both at transmission and distribution levels. The report shall distinguish between seasonal, daily and hourly flexibility needs.	LT: (Drafting): The report shall include an evaluation of the need for flexibility to integrate electricity generated from renewable sources in the electricity system and consider, in particular, the potential of non-fossil flexibility such as demand side response and storage to fulfil this need, both at transmission and distribution levels. The report shall distinguish between seasonal, daily and hourly flexibility needs. LT: (Comments):

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Commission proposal	Drafting Suggestions Comments
	If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, it should be explained or defined. The term ‘demand response’ should be used consistently. IE: (Comments): We are widely supportive of the proposal to assess and report on the flexibility needs in the electricity system, including evaluating the potential of non-fossil flexibility such as demand side response and storage to meet this need. In relation to the proposal that the report “shall distinguish between seasonal, daily and hourly flexibility needs” – this should be for flexibility more broadly, rather than seasonal, daily and hourly needs for storage, demand side response etc. DK: (Drafting): 2. The report shall include an evaluation of the need for flexibility to integrate electricity generated from renewable sources in the electricity system and consider, in particular, the potential of non-fossil flexibility such as demand side response, energy storage and renewable dispatchable production capacity to fulfil this need, both at transmission and distribution levels. The report shall distinguish between seasonal, daily and hourly flexibility needs.

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	DK: (Comments): As option 2, Denmark suggest amendments to the proposed article 19 c, para.2. DK finds promotion of non-fossil flexibility and demand side response positive. Although it is important to secure that flexibility and storage investment in existing low-carbon capacity (eg. renewable and low-carbon dispatchable production capacity) is included, existing renewable and low-carbon dispatchable production capacity is critical to the security of supply why market conditions for the existing capacity must be maintained.
3. The transmission and distribution system operators of each Member State shall provide the data and analyses needed for the preparation of the report referred to in paragraph 1 to the regulatory authority.	LT: (Comments): The data set provided by TSO/DSO has to be described in the text or provided in the implementation guidelines. ES: (Drafting): 3. The transmission and distribution system operators of each Member State shall provide the data and analyses needed for the preparation of the report referred to in paragraph 1 to the competent authority. DK:

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	(Drafting): 3. The transmission and distribution system operators of each Member State shall provide the data and analyses needed for the preparation of the report referred to in paragraph 1 to the regulatory authority or the authority designated by the Member State for this task. The analyses provided by transmission and distribution system operators shall be based on the analytical base assumptions developed by the Member State for use in its energy planning and policy. DK: (Comments): As option 2, Denmark suggest amendments to the proposed article 19 c, para.3. FR: (Drafting): 3. The transmission and distribution system operators of each Member State shall provide the data and analyses, according to the data and methodology defined by the regulatory authority, needed for the preparation of the report referred to in paragraph 1 to the regulatory authority or the TSO. FR: (Comments): as explained before, it would be useful to let the TSO do this study as it already studies

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	security of supply problems. To ensure the best possible quality of the report on flexibility needs, it would be more efficient if the data to be used and the methodology to be applied would define at national level. Defining the methodology at European level would lead to less ambitious methodology. The data to be collected shall be so detailed that trying to define / harmonise it at European level would be counterproductive.
4. The ENTSO for Electricity and the EU DSO entity shall coordinate transmission and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 2. In particular, they shall:	IT: (Drafting): 4. The ENTSO for Electricity and the EU DSO entity shall coordinate transmission and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 2. In particular, they shall: FR: (Drafting): 4. The ENTSO for Electricity and the EU DSO entity shall coordinate transmission and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 2. In particular, they shall:
(a) define the type of data and format	ES:

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Commission proposal	Drafting Suggestions Comments
that transmission and distribution system operators shall provide to the regulatory authorities;	(Drafting): (a) define the type of data and format that transmission and distribution system operators shall provide to the competent authorities; IT: (Drafting): (a) — define the type of data and format that transmission and distribution system operators shall provide to the regulatory authorities; DK: (Drafting): (a) define the type of data and format that transmission and distribution system operators shall provide to the regulatory authorities or the authorities designated by the Member States; DK: (Comments): As option 2, Denmark suggest amendments to the proposed article 19 c, para. 4 (a). FR: (Drafting): (a) — define the type of data and format that transmission and distribution system operators shall provide to the regulatory authorities ;

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(b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system.	PT: (Comments): Related with previous comment IT: (Drafting): (b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system. DK: (Drafting): (b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system. The methodology shall allow for the analysis to take into account individual Member States' analytical base assumptions developed by the Member State for use in its energy planning and policy, such as, for example, targets for security of electricity supply and projections for the development of supply and demand in their electricity

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	systems. DK: (Comments): As option 2, Denmark suggest amendments to the proposed article 19 c, para.4 (b). It is important that the analysis carried out by TSOs and DSOs can take account for the individual situation in Member States. This has to be reflected in the (EU-harmonised) methodology. FR: (Drafting): (b) — develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system.
5. The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators.	IT: (Drafting): 5. — The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators.

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Commission proposal	Drafting Suggestions Comments
	DK: (Drafting): 5. The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators. FR: (Drafting): 5. The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators.
6. By 1 March 2024, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to regulatory authorities and the methodology referred to in paragraph 3. Within three months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for	BE: (Drafting): Within 2 months after the adoption of this regulation By 1 March 2024, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be [submitted to regulatory authoritiesused] and the methodology referred to in paragraph 4 3. Within three two months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity within a period of one month before adopting the amendments. The adopted proposal shall be published on ACER's website. PL: (Drafting):

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Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.	By 1 March 2024 2025 PT: (Comments): Seems that the provisions of paragraph 1 must be carried out every 2 years, so also here the need to periodically send a proposal may be foreseen, even if it is to mention that there is nothing to change in the methodology adopted. IT: (Drafting): 6. — By 1 March 2024, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to regulatory authorities and the methodology referred to in paragraph 3. Within three months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website. IE: (Drafting): 6. By 1 March 2026, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to regulatory authorities and the methodology referred to in paragraph 3. Within three months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.

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	DK: (Drafting): 6. By 1 March 2024, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to regulatory authorities and the methodology referred to in paragraph 3. Within three months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website. FR: (Drafting): 6. By 1 March 2024, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to regulatory authorities and the methodology referred to in paragraph 3. Within three months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.
7. The regulatory authorities shall submit the reports referred to in paragraph 1	NL:

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to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities.	(Drafting): 7. The regulatory relevant authorities shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities. ES: (Drafting): 7. The competent authority shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the competent authorities. IT: (Drafting): 7. The regulatory authorities shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities. DK: (Drafting): 7. The regulatory authorities or the authorities designated by the Member States shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of

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	receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities or the authorities designated by the Member States. DK: (Comments): As option 2, Denmark suggest amendments to the proposed article 19 c, para. 7. FR: (Drafting): If the Member State chose the TSO to make report referred to in paragraph 1, the report has to be aproved by the regulatory authority and then transmitted to ACER. Otherwise, the regularoty authorities shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the report regulatory authority
Article 19d	
Indicative national objective for demand side	LT:

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Commission proposal	Drafting Suggestions Comments
response and storage	(Drafting): Indicative national objective for demand side response and storage LT: (Comments): If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, it should be explained or defined. The term ‘demand response’ should be used consistently. DK: (Drafting): Indicative national objective for demand side response and energy storage
Based on the report of the regulatory authority pursuant to Article 19c(1), each Member State shall define an indicative national objective for demand side response and storage. This indicative national objective shall also be reflected in Member States’ integrated national energy and	LT: (Drafting): Based on the report of the regulatory authority pursuant to Article 19c(1), each Member State shall define an indicative national objective for demand side response and storage. This indicative national objective shall also be reflected in Member States’ integrated national energy and climate plans as regards the dimension ‘Internal Energy Market’ in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress

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Commission proposal	Drafting Suggestions Comments
climate plans as regards the dimension ‘Internal Energy Market’ in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999.	reports in accordance with Article 17 of Regulation (EU) 2018/1999. LT: (Comments): If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, it should be explained or defined. The term ‘demand response’ should be used consistently. BE: (Drafting): Based on the report of the regulatory authority pursuant to Article 19c(1), Each Member State shall define an indicative national objective for demand side response and storage. This indicative national objective shall also be reflected in Member States’ integrated national energy and climate plans as regards the dimension ‘Internal Energy Market’ in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999. Based on As soon as this is available, the report of the regulatory authority pursuant to Article 19c(1) will be taken into account when defining or amending this objective. BE: (Comments): Urgent action is needed to wind down the use of fossil capacities and to speed up DSR and storage. The definition

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	of a national objective should not need to wait for the process of article 19c to be completed. A lot of data is already available, and the report of article 19c should not need to be the sole input either Storage: limited to e-batteries, or also EV's, or thermal storage...? <u>Indicative</u> is important. DSM and storage are a means and no objective. NL: (Drafting): Based on the report of the regulatory relevant authority pursuant to Article 19c(1), each Member State shall define an indicative national objective for demand side response and storage. This indicative national objective shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999. ES: (Drafting): Based on the report of the competent authority pursuant to Article 19c(1), each Member State shall define an indicative national objective for demand side response and storage. This indicative national objective shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999. PT: (Comments):

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	The report defined in article 19c(1) will be published on 1 January 2025. In accordance with the provisions of Regulation (EU) 2018/1999, a new version of the NECP (Article 3) will only be presented by January 1, 2029. The updating of the NECP, provided in article 14 of the governance regulation, will take place by 30th June 2024 and, thereafter, by January 1, 2034 and every 10 years. Thus, and based on the date of publication provided for in article 19c(1) of these regulations, the report provided for therein will only have an effect on the NECP in 2029, 4 years after publication of the first one. Will the definition of the indicative objective be carried out outside the entire process of preparing the NECP, in order to be included in the monitoring reports thereof? IE: (Comments): We broadly welcome the call for indicative national objectives for storage. These should be high level objectives and not require distinction between storage of different durations. DK: (Drafting): Based on the report of the regulatory authority or another authority designated by the Member State pursuant to Article 19c(1), each Member State shall define an indicative national

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	objective for demand side response and energy storage. This indicative national objective shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999.
Article 19e	BE: (Comments): How does this monitoring obligation via the NECP links with the Governance Regulation (2018/1999)? What does the Commission concretely aim at with the notion of a flexibility support scheme? IT: (Drafting): Article 19e; or IT: (Comments):

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	amendments to Art.19e are extremely needed. The current formulation does not consider the real difference between flexibility needs and adequacy needs. In particular, we deem it essential to clarify that CRMs are introduced to ensure security of supply is not undermined by the progressive switch to RES generation (adequacy needs), but we don't see these mechanisms fit for purpose when it comes to boost new storage capacity and speed up the energy transition towards a net-zero economy (flexibility and adequacy needs). Indeed, for this last purpose, other long-term mechanisms will be vital. In other words, we believe the CRM will be a good tool to cope with adequacy needs but it won't be the right tool to decarbonize when the power system will be already adequate. For these reasons we consider it necessary to amend this article with the aim of putting on the same level CRMs and other flexibility support schemes, without introducing a hierarchy in their application to achieve flexibility targets.
Flexibility support schemes	NL: (Comments): The Netherlands is cautious that the addition of different schemes for the contracting of demand side response in addition to already available possibility for TSOs to contract DSR for balancing purposes risks fragmenting markets for flexibility, and may distort the level playing field between technologies towards DSR and storage at the expense of for example interconnection.

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	PL: (Comments): Overall, flexibility cannot be treated as a universal measure that will solve problems of generation adequacy. It must be acknowledged that DSR and storage facilities are not able to replace dispatchable generation units. It is reasonable to introduce solutions that will allow the support and development of DSR and electricity storage technologies while not adversely affecting the security of system operation, including the ability to meet future demand and provide the required level of capacity reserves or the ability to invest in dispatchable sources. Capacity mechanisms are not incompatible with other mechanisms for supporting DSR and flexibility services, but they serve different objectives. IE: (Comments): • By and large we welcome the text on support schemes for flexibility and storage however, we would caution against being over-prescriptive in the design of these.
1. Member States which apply a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility such as demand side response and storage by	LT: (Drafting): 1. Member States which apply a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility such as demand side

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introducing additional criteria or features in the design of the capacity mechanism.	response and storage by introducing additional criteria or features in the design of the capacity mechanism. LT: (Comments): Capacity mechanisms are likely to be necessary in many EU countries as a standard feature of well-functioning wholesale markets to ensure system adequacy (in addition to specific instruments to support investments in RES and low-carbon generation). LT proposes to move away from current rules which considering CRMs as a last resort measure only: the cumulative and restrictive conditions for their establishment, should be carefully reconsidered. National adequacy assessments can further complement the ERAA in assessing system adequacy more holistically, with a higher granularity and dedicated sensitivities, for instance addressing locational adequacy issues. By doing so, capacity mechanisms can provide location dependent incentives in order to ensure that the required investments take place in the right locations. For relatively small and highly interconnected systems as Lithuania such obligation means a very low possibility of new generation in the country. Most probably the capacity payments would be distributed for cross-border generators. Therefore, unified rules could be applied in European market but cross-border participation in CRM mechanism should be limited to certain level

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	If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, it should be explained or defined. The term ‘demand response’ should be used consistently. PL: (Drafting): 1. Member States which apply a capacity mechanism in accordance with Article 21 may shall consider the promotion of the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features in the design of the capacity mechanism. PL: (Comments): According to the Regulation in force, capacity mechanisms already need to acknowledge the potential of DSR and storage. Introducing additional requirements for MS brings no added value – on the contrary, it will lead to further burdens (as explicitly acknowledged by the COM, it would “make the Commission’s assessment of capacity mechanisms (both the required preceeding implementation plan as well as the State aid process) more complex”). Moreover, the proposed changes raise questions with regards to the technology neutrality principle as well as Article 22.1 (d), according to which capacity mechanisms select capacity

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	providers by means a of a non-discriminatory process. All available analyses, including the last report of JRC 'Flexibility requirements and the role of storage in future European power systems', mentioned in the Staff Working Document (SWD(2023) 57), underline the importance of flexible dispatchable thermal units in the long-term supplementing electricity storage facilities in the 2030 and 2050 horizon. ES: (Drafting): DK: (Drafting): 1. Member States which apply a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility such as demand side response, energy storage and renewable dispatchable production capacity by introducing additional criteria or features in the design of the capacity mechanism. FR: (Drafting): 1. Member States which apply a capacity mechanism in accordance with Article 21 shall may consider the promotion of the participation of non-fossil flexibility such as demand side

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	response and storage by introducing additional criteria or features in the design of the capacity mechanism. FR: (Comments): we think that the fact that this is an option for member states has to be clarified. MT: (Comments): The proposal fails to make substantive changes to relevant Articles concerning capacity mechanisms (Article 20, 21 of the Elec. Market Regulation). Malta considers capacity mechanisms as another important tool within the new market design and their use should be simplified through changes in the Electricity Regulation.
2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with 19d, Member States may apply flexibility	LT: (Drafting): 2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with 19d, Member States may apply flexibility support schemes consisting of payments for the available

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support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.	capacity of non-fossil flexibility such as demand side response and storage. LT: (Comments): If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, it should be explained or defined. The term ‘demand response’ should be used consistently. BE: (Drafting): 2. — Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with 19d, Member States may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage. BE: (Comments): The process foreseen in the draft is too long: first establish a methodology, then draft a flexibility report, validate a national objective based on this report, introduce additional measures in the CRM and/or have a flexibility scheme approved under State Aid rules. And only then have a specific scheme organised, with new capacities online at best one year after their selection. In view of the war in Ukraine urgent action is needed. Furthermore, additional DSM and storage is a no regret in

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	any case (climate objectives). I.e. no need to apply such strict criteria and such a lengthy process. Regardless of having a CRM in place or not, specific support measures for new DSR and storage can prove a rapid and cost-efficient answer to urgent flexibility and security of supply needs. PL: (Comments): It is not clear whether the flexibility support schemes introduced by MS would also have to adhere to CEEAG guidelines. IT: (Drafting): “Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and storage in capacity mechanisms are insufficient.” DK: (Drafting): 2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response, energy storage and renewable

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	dispatchable production capacity in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with 19d, Member States may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and energy storage and renewable dispatchable production capacity.
3. Member States which do not apply a capacity mechanism may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.	LT: (Drafting): 3. Member States which do not apply a capacity mechanism may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage. LT: (Comments): If the meaning of ‘demand side response’ is not the same as ‘demand response’, as it defined in the Directive (EU) 2019/944, it should be explained or defined. The term ‘demand response’ should be used consistently. BE: (Drafting): Member States which do not apply a capacity mechanism may apply flexibility support

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	schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage. In case the Member State applies a market-wide capacity mechanism, their coherence will be ensured. BE: (Comments): Can paragraph 3 also apply if member states have a capacity mechanism (CRM) in place? Flexibility support schemes can still be necessary for demand response and storage for DSO purposes like congestion management, even if a capacity mechanism is in place. Are these support schemes also linked to the objectives for flexibility in article 19d? ES: (Drafting): 3. Member States which do not apply a capacity mechanism: a) may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage, or b) may introduce a new capacity mechanism in accordance to paragraph 1 of this article that considers in its design the promotion of the participation of non-fossil flexibility such as demand side response and storage by introducing additional criteria or features. In this case, the general and design principles established in articles 21 and 22, paragraphs (a) and (c), shall not apply.

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	ES: (Comments): We welcome the possibility for Member States to provide support schemes for investments in storage and demand response to guarantee security of supply (Articles 19e & 19f). However, this is not enough. The proposal does not address the amendment of the procedural aspects and the methodology related to capacity mechanisms as per Chapter IV of the Electricity Regulation 2019/943. In our view, relevant provisions in the above mentioned Chapter IV must be revisited. We propose an amendment to paragraph 3 in art. 19e and additional amendments in art. 21 and the removal of 22 of the current regulation 2019/943 in order to introduce more flexibility in its application. DK: (Drafting): Member States which do not apply a capacity mechanism may apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response, energy storage and renewable dispatchable production capacity. DK: (Comments):

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	There should be a paragraph specifying how “flexibility support schemes” should/could be implemented. Do MS have to follow the same application process as for a capacity mechanism in accordance to Article 21, or can the flexibility schemes just be implemented given the design principles in Article 19f?
Article 19f	BE: (Comments): Does this article imply that MS are not allowed anymore to support flexibility by fossil production installations? A different Flexibility support scheme for fossil flexibility is possible? eg: many CHP’s have been installed to provide this flex. Idem for the potential (old) back-up generators, fossiel fueled...
	ES: (Drafting):
Design principles for flexibility support schemes	IE:

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	(Comments): Article 19(f) talks about demand response and storage and should be expanded to include other technologies like synchronous condensers, flywheels etc which also contribute to system flexibility
Flexibility support scheme for non-fossil flexibility such as demand response and storage applied by Member States in accordance with Article 19e(2) and (3) shall:	DK: (Drafting): Flexibility support scheme for non-fossil flexibility such as demand response, energy storage and renewable dispatchable production capacity applied by Member States in accordance with Article 19e(2) and (3) shall:
(a) not go beyond what is necessary to address the identified flexibility needs in a cost-effective manner;	
(b) be limited to new investments in non-fossil flexibility such as demand side response and storage;	LT: (Drafting):

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	(b) be limited to new investments in non-fossil flexibility such as demand side response and storage; EE: (Drafting): (b) be limited to new investments in non-fossil flexibility such as storage; EE: (Comments): What do you mean by new investments in demand side response? In storage, the limitation of support with only new investments is justified, while in demand response supporting only new investments seems unjustified. PT: (Comments): What is the interpretation of “new investments”? (There is also “new investments” in the new article 19b, related with CFD) DK: (Drafting): (b)be limited to new investments in non-fossil flexibility such as demand side response, energy storage and renewable dispatchable production capacity.

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	DK: (Comments): The article implies that support schemes are limited to "new investments" in non-fossil flexibility. This implies that support schemes for existing flexibility are not included. This diminishes the market conditions of existing flexibility capacity, and is unreasonable due to the criticality of the current flexibility capacity including renewable and low-carbon dispatchable production capacity.
(c) must not imply starting fossil fuel-based generation located behind the metering point;	LT: (Comments): More clarity is needed how this should be implemented. TSOs do not have visibility behind the meter activities. IE: (Comments): Are they using a definition for “demand response” that excludes behind-the-meter fossil fuel generation?

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(d) select capacity providers by means of an open, transparent, competitive, non-discriminatory and cost-effective process;	
(e) prevent undue distortions to the efficient functioning of the electricity markets including preserving efficient operation incentives and price signals and the exposure to price variation and market risk;	BE: (Comments): Flexibility markets like balancing or congestion markets are not mentioned? Or are these seen as a part of the electricity markets?
(f) provide incentives for the integration in the electricity market in a market-based and market-responsive way, while avoiding unnecessary distortions of electricity markets as well as taking into account possible system integration costs and grid stability;	
(g) set out a minimum level of participation in the market in terms of activated energy, which takes into account	LT: (Comments):

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the technical specificities of storage and demand response;	Explanation is needed what is meant by the reference to the “minimum level of participation” BE: (Comments): This seems contrary to (e) and (f) isn’t it?
(h) apply appropriate penalties to capacity providers which do not respect the minimum level of participation in the market referred to in point (g), or which do not follow efficient operation incentives and prices signals;	BE: (Comments): This seems contrary to (e) and (f). isn’t it? Penalties should target availability, not activated energy.
(i) be open to cross-border participation.’;	LT: (Comments): For relatively small and highly interconnected systems as Lithuania such obligation means a very low possibility of new generation in the country. Most probably the capacity payments would be distributed for cross-border generators. Therefore, unified rules could be applied in European market but cross-border participation shall be limited to certain level.

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	EE: (Comments): What does it mean in practise? Does it mean that support schemes should be planned together with other Member States? Should support scheme in one country be able to support storage in another country for example? In what cases would it be justified not to open support scheme to cross-border participation, (could this be for example when there is a need to solve the problem within the same bidding zone)? IT: (Drafting): (i) — be open to cross border participation.; IT: (Comments): We ak for the provision on letter i) to be repealed We consider negative the introduction of a prerequisite (the letter (i)) about the cross-border participation to the flexibility support schemes. Indeed, in some cases, the XB participation could be not beneficial. For example, in Italy, most of wind and solar generation capacity will be installed in the South, whereas most of the demand for electricity will take place in the North. In those months of the year (and those hours of the day) when wind and solar farms

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	produce the most, it may not be feasible to transport the whole production to consumption sites, due to cross-zonal congestions – resulting in a waste of clean energy. The development of storage systems close to non-programmable RES plants would reduce the magnitude of this problem, as clean energy could then be transported to consumption sites as soon as the HV grid is no longer congested. However, should the RES farm and storage system be on the opposite side of congestion, the storage system would be of no help. It is now clear why a storage system located on the other side of, say, the North Border could not play any role in reducing overgeneration from RES farms located in, say, Sicily. CZ: (Drafting): (i) be open to cross-border participation based on TSO assessment.’; CZ: (Comments): We opt for voluntary cross-border participation, respectively this to be determined by the evaluation of the TSO FR: (Drafting): (i) be open to cross border participation.’; FR: (Comments):

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	We think that this not consistent with the fact that the need is studied at national scale. Moreover, the need is mainly at hours where the interconnections are already congested.
	PL: (Drafting): [11a] In Article 22, new paragraphs 6, 7 and 8 are inserted, as following: 6. By way of derogation to the Articles 22(4) and 21(6) Member State implementing capacity mechanisms other than strategic reserves, that have been already approved by the Commission before the entry into force of this Regulation, may carry out complementary procurement process if, despite carrying out all primary capacity procurement processes as envisaged in the approved mechanism, the resource adequacy for the given contracting period cannot be guaranteed and there is a risk that national security of supply may be endangered. 7. The complementary procurement process as set out in paragraph 6: a) can be opened to all capacity providers who meet the necessary technical and economical criteria, including generation units that do not meet the requirements regarding CO2 emission limits set out in paragraph 4, b) cannot grant capacity providers with capacity contracts longer than one year, c) shall be organised as a competitive bidding process. PL:

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	(Comments): Member States should be able to use capacity mechanisms in a way that better reflects current circumstances, electricity system needs and security of supply risks. The possibility to carry out complementary procurement processes (open to all providers) would allow to avoid security of supply risks in situations where sufficient capacity could not be contracted in the primary procurement processes. ES: (Drafting): (9a) Article 21 is amended as follows: General principles for capacity mechanisms 1. In order to eliminate present or future resource adequacy concerns detected by an adequacy assessment, either at European or national level, and to provide market agents and stakeholders with a price signal that ensures investment in firm and flexible technologies that safeguards security of supply at national level, Member States may introduce capacity mechanisms. 2. Member States shall adopt the form of a capacity market, safeguarding the design principles establish in article 22, although different schemes may be considered to adapt them to their national specificity, such as strategic reserves, reliability options, or other.

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	(9b) Article 22, paragraphs 1.(a) and (c) are deleted. ES: (Comments): We welcome the possibility for Member States to provide support schemes for investments in storage and demand response to guarantee security of supply (Articles 19e & 19f). However, this is not enough. The proposal does not address the amendment of the procedural aspects and the methodology related to capacity mechanisms as per Chapter IV of the Electricity Regulation 2019/943. In our view, relevant provisions in the above mentioned Chapter IV must be revisited. We propose an amendment to paragraph 3 in art. 19e and additional amendments in art. 21 and the removal of 22 of the current regulation 2019/943 in order to introduce more flexibility in its application.
(10) in Article 37 (1), point (a) is replaced by the following:	IT: (Drafting): It is proposed to eliminate the words "and the electricity balancing guideline". Alternatively, it can be envisaged that the coordinated calculation of capacity also for balancing needs will be the responsibility of the Regional Coordination Centers only after an adequate interval of time. IT:

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	(Comments): Caution is advised in the immediate transfer of capacity calculation competence for balancing purposes. To date, this competence has always been maintained by the national TSOs, both due to the extremely challenging timing with which this calculation is performed (close to real time) and due to the extreme criticality for the security of the system that would result from any errors. It is proposed to drop the part relating to balancing or at least to introduce an appropriate time interval before this becomes mandatory.
“(a), carrying out the coordinated capacity calculation in accordance with the methodologies developed pursuant to the forward capacity allocation guideline, the capacity allocation and congestion management guideline and the electricity balancing guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009;”;	IT: (Drafting): “(a), carrying out the coordinated capacity calculation in accordance with the methodologies developed pursuant to the forward capacity allocation guideline, the capacity allocation and congestion management guideline and the electricity balancing guideline adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009;”;
(11) Article 50 is amended as follows:	CZ:

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	(Comments): There is a discrepancy between this obligation for TSOs (having it already withing the regulation) whereas DSOs have this obligation incorporated in directive 2019/944, e.g. subject to transposition into national legislation. We would like these obliogations to be alligned within the directive 2019/944
(a) the following paragraph 4a is added:	
“4a. Transmission system operators shall publish in a clear and transparent manner, information on the capacity available for new connections in their respective areas of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least quarterly.	EE: (Drafting): “4a. Transmission system operators shall publish in a clear and transparent manner, information on the capacity available for new connections in their respective areas of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least monthly. EE: (Comments): Publishing information about available capacity only quartely might not be enough to incentivize new investments. CZ:

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	(Drafting): “4a. Transmission system operators shall publish in a clear and transparent manner, information on the capacity available for new connections in their respective areas of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least quarterly. DK: (Comments): Why are only flexible energy storage connections mentioned in regard to congested areas? FR: (Drafting): “4a. Transmission system operators shall publish in a clear and transparent manner, information on the capacity available for new connections for new connections of generators in their respective areas of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least quarterly. FR: (Comments): France supports user access to certain network data. For several years, French authorities have been observing attempts by certain players (data

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	centers) to administratively reserve connection capacity in certain geographical areas. These attempts are hampered by the lack of publication. At a time when connection capacities are important economic stakes for data center developers and for the decarbonisation of industry, the French authorities do not wish, through the publication of such data, to favour the players with the greatest financial resources. The publication of consumption data would also be a regional planning issue with a risk of concentrating private investments in certain territories where capacity is available. This concentration could then be fuelled by network reinforcements committed to the same sectors with regard to network development rules. HU (Drafting): ...if flexible energy storage connections can be accommodated, and update that information regularly, at least quarterly every 6 months.
Transmission system operators shall also provide clear and transparent information to system users about the status and treatment of their connection requests. They shall provide such information within a period of	EE: (Comments): The answer about the status and treatment of connection requests should be sent quicker than 3 months. In what detail is the information expected to be provided by TSO? CZ:

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three months from the submission of the request ";	(Drafting): Transmission system operators shall also provide clear and transparent information to system users about the status and treatment of their connection requests. They shall provide such information within a period of three months from the submission of the request "; Published information is of indicative nature and it does not represent a legally binding right for connection capacity. National regulatory authorities shall issue rules against market abuse of this provision. CZ: (Comments): The real availability of the connection capacity can be granted to the applicant only based on detailed connection study based on concrete data by the applicant. NRAs shall issue clear guidance/rules against either market abuse of inquired information or speculative bookings of grid connection capacities.
(12) in Article 57, the following paragraph 3 is added:	
“3. Distribution system operators and transmission system operators shall	

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cooperate with each other in publishing information on the capacity available for new connections in their respective areas of operation in a consistent manner and giving sufficient granular visibility to developers of new energy projects and other potential network users.	
(13) in Article 59 (1), point (b) is replaced by the following:	
“(b), capacity-allocation and congestion-management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single	PL: (Drafting): “(b), capacity-allocation and congestion- management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single day-ahead and intraday coupling including the possibility of being operated by a single entity

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day-ahead and intraday coupling including the possibility of being operated by a single entity, the firmness of allocated cross-zonal capacity, congestion income distribution, the allocation of financial long-term transmission rights by the single allocation platform, cross-zonal transmission risk hedging, nomination procedures, and capacity allocation and congestion management cost recovery;”;	PL: (Comments): Poland proposes to delete these fragments. Reference to Article 19 should be deleted as per the proposed amendment to article 19. Poland does not support special treatment for offshore generation plant operators. Additionally we propose to delete the fragment on the possibility to create a single legal entity as unnecessary. Should the TSOs and NEMOs decide to introduce new entity (which to this point did not gain a wider approval from all involved stakeholders) they have the freedom to do so. IT: (Drafting): “(b), capacity-allocation and congestion- management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single day-ahead and intraday coupling including the possibility of being operated by a single entity, the firmness of allocated cross-zonal capacity, congestion income distribution, the allocation of financial long-term transmission rights by the single allocation platform, cross-zonal transmission risk hedging, nomination procedures, and capacity allocation and

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	congestion management cost recovery;”; IT: (Comments): See above considerations on article 7 CZ: (Drafting): “(b), capacity-allocation and congestion- management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single day-ahead and intraday coupling including the possibility of being operated by a single entity, the firmness of allocated cross-zonal capacity, congestion income distribution, the allocation of financial long-term transmission rights by the single allocation platform, cross-zonal transmission risk hedging, nomination procedures, and capacity allocation and congestion management cost recovery;”; CZ: (Comments): In line with our comments for the new wording in Article 7.

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	HU (Drafting): ...redispatching and countertrading, trading algorithms, single day-ahead and intraday coupling including the possibility of being operated by a single entity , the firmness of allocated crosszonal capacity...
(14) The following Article 69a is added:	
Article 69a	
Interaction with Union financial legislation	
Nothing in this Regulation shall derogate from the provisions of Directive (EU) 2014/65, Regulation (EU) 648/2012 and Regulation (EU) 600/2014 when market participants or market operators engage in activities related to financial instruments in particular as defined under Article 4(1)(15)	

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of Directive (EU) 2014/65.	
(15) in Annex I point 1.2 is replaced by the following:	
“1.2. Coordinated capacity calculation shall be performed for all allocation timeframes”.	
Article 2	
Amendments to Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity	
Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity is amended as follows:	

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(1) Article 2 is amended as follows:	
(a) points (8) and (49) is replaced by the following:	
“(8) ‘active customer’ means a final customer, or a group of jointly acting final customers, who consumes or stores electricity generated within its premises located within confined boundaries or self-generated or shared electricity within other premises located within the same bidding zone, or who sells self-generated electricity or participates in flexibility or energy efficiency schemes, provided that those activities do not constitute its primary commercial or professional activity.”;	BE: (Comments): What is the link between these two following parts of the definition: "<i>shared electricity within other premises located within the same bidding zone</i> " and "<i>or who sells self-generated electricity</i>"? The possibility for an active customer to share electricity is not already included in the possibility for him to sells self-generated electricity? What is the link between these two activities? What is here the difference between share and sell? We feel that a difference is needed between supplier activities and energy sharing in a community. Energy sharing for a price in a community with 10000 members within the same bidding zone is actually supplying. That should come with supplier rights and duties.

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“(49) 'non-frequency ancillary service' means a service used by a transmission system operator or distribution system operator for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, black start capability, island operation capability and peak shaving;”	IT: (Drafting): “(49) 'non-frequency ancillary service' means a service used by a transmission system operator or distribution system operator for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, black start capability, island operation capability and peak shaving,” IT: (Comments): it is proposed to eliminate the "peak shaving" service from this definition as it would be a balancing service and not a no-frequency service.
(b) the following points are added:	
(15a) ‘fixed term, fixed price electricity supply contract’ means an electricity supply contract between a supplier and a final customer that guarantees the same contractual conditions, including the price, while it may, within a fixed price, include a	BE: (Drafting): (15a) ‘fixed term, fixed price electricity supply contract’ means an electricity supply contract between a supplier and a final customer that guarantees the same contractual conditions, including the price, while it may, within a fixed price, include a flexible element with for

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flexible element with for example peak and off peak price variations;	example peak and off peak price variations with exit fees and notice periods,; BE: (Comments): What does <i>within a fixed price, include a flexible element with for example peak and off peak price variations</i> mean? Is it a dynamic contract with a fixed price cap? Fixed price contract with time of use? E.g. 2 different fixed prices day/night? We suggest to specify or change the name of the definition in order to avoid confusion with a fixed price contract where there is one fixed price for a fixed period without flexible elements. IE: (Comments): Clarification needed on what is meant by 'it may, within a fixed price, include a flexible element with for example peak and off peak price variations' Does this mean a fixed day rate but a variable peak and off peak rate? Or fixed Time of Use rates? Or something else. If the intention is to give customer certainty then having variable elements could cause consumer confusion. Could a consumer with a fixed term contract (a fixed flat rate or fixed Time of Use rates) still access demand flexibility offerings for reduced rates on an ad hoc basis? FR: (Drafting): (15a) 'fixed term, fixed price electricity supply contract' means an electricity supply contract between a supplier and a final customer that guarantees the same contractual conditions, including the price, while it may, within a fixed price, include a flexible element with for

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	example peak and off peak price variations or taxes or network tariffs;
(10a) ‘energy sharing’ means the self-consumption by active customers of renewable energy either:	LT: (Drafting): ‘energy sharing’ means the self-consumption by active customers or members of citizen energy community or renewable energy community of renewable energy either: LT: (Comments): It is not clear what will be responsibilities of the participants in the energy sharing with regards to payments for imbalance and network usage fees. The energy sharing is foreseen in citizen energy communities and renewable energy communities as well. Therefore, members of these communities should be mentioned in the definition for legal clarity. It is not obvious that members of citizen energy community or renewable energy community are active customers as they defined in the Directive (EU) 2019/944. On the contrary, there is a difference in the Directive (EU) 2019/944 in regulation of active customers and members of citizen energy community. According to the Directive (EU) 2019/944 Art. 15 para 2f), active customers are financially responsible for the imbalances they cause in the electricity system.

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	Differently, members of citizen energy community are not responsible for the imbalances since Art. 16 para 3c) sets this responsibility to the citizen energy community (it is a legal entity) itself. It is not clear if the active customers of renewable energy by definition are the same persons as renewables self-consumers or jointly acting renewables self-consumers as they defined in the Directive (EU) 2018/2001. For legal clarity, it is suggested to change the definition of renewables self-consumer in Directive (EU) 2018/2001 as follows: ‘renewables self-consumer’ - active customer who generates renewable electricity. EE: (Drafting): (10a) ‘energy sharing’ means the self-consumption by households, small and medium sized enterprises and public bodies as active customers of renewable energy either: EE: (Comments): It should be clarified here that energy sharing only applies for households, small and medium sized enterprises and public bodies. Otherwise there might be a risk to divert too large part of energy out of the wholesale market to energy sharing and eventually damage the market functioning and liquidity (especially in small bidding zones). IE:

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	(Comments): Clarification needed on whether this is a restriction of energy sharing to renewable energy generated only, which may be impractical and difficult to implement/restrict. This is particularly true where storage is concerned, where storage may/may not be from renewable electricity. The restriction may also limit the ability of those active customers to contribute to flexibility on the system.
(a) generated or stored offsite or on sites between them by a facility they own, lease, rent in whole or in part; or	PL: (Comments): Proposed definition is unclear, especially ‘on sites between them’.
(b) the right to which has been transferred to them by another active customer whether free of charge or for a price.	LT: (Drafting): (b) the right to which has been transferred to them by another active customer or member of citizen energy community or renewable energy community whether free of charge or for a price. BE: (Drafting):

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	(b) the right to which has been transferred to them by another active customer . whether free of charge or for a price. BE: (Comments): <i>free of charge or for a price</i>, can a member state decide when energy sharing is free or for a price or is it an universal right for the active customer? Difference for energy communities citizen/renewable/P2P? A difference is needed between supplier activities and energy sharing in a community. Energy sharing for a price in a community with 10000 members is actually suppling. That should come with supplier rights and duties. What is the link with the possibility for renewable self-consumers and active customers to sell self-generated electricity including through peer-to-peer trading arrangements → see articles 15 EMD directive and 22 RED directive? Could you explain the links between all of these above-mentioned activities and the new concept of energy sharing included in the proposal? NL: (Drafting): (b) the right to which electricity has been transferred to them by another active customer

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	whether free of charge or for a price.
(10b) ‘peer-to-peer trading’ of renewable energy means peer-to-peer trading as defined in point (18) of Article 2 of Directive (EU) 2018/2001.	
(24a) ‘supplier of last resort’ means a supplier who is designated by a Member State to take over the supply of electricity to customers of a supplier which has ceased to operate;	NL: (Drafting): (24a) ‘supplier of last resort’ means a supplier who is designated by a Member State to take over the supply of electricity to customers of a supplier which has ceased to operate, beforehand or at the moment the issue arises; NL: (Comments): To avoid unnecessary infringement on free market dynamics by appointing specific suppliers beforehand. It is important for Member States to remain capable to find the best and most fair solution (with least market interference) at the moment this issue arises.

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Commission proposal	Drafting Suggestions Comments
(2) Article 4 is replaced by the following:	
“Article 4	
Free choice of supplier	
Member States shall ensure that all customers are free to purchase electricity from the supplier of their choice. Member States shall ensure that all customers are free to have more than one electricity supply contract at the same time, and that for this purpose customers are entitled to have more than one metering and billing point covered by the single connection point for their premises.”	LT: (Comments): LT takes scrutiny reservation for this article. More clarity is needed on how this provision would work in practice. Having multiple metering points for a single connection point can create billing and accounting issues. Additionally, there should be regulation regarding installation costs and responsibility. BE: (Comments): Can the com further explain what is the added value of this proposal? As this is already foreseen for charging points in directive 2014/94? How can MS implement this when they are not technically ready yet?

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	Ok with content but we need more time to put it in operation (from 1/1/2025?). Does a single connection with multiple metering and billing points implies that two connection points with an own meter and billing point (a parallel system) e.g. an EV with one connection point and the other household consumption on the other connection point in the same premises is no longer possible? Why did the Commission choose to transform the technical condition for having a right to multiple electricity supply (<i>“provided that the required connection and metering points are established”</i>) to a new additional right (<i>“and that for this purpose customers are entitled to have more than one metering and billing point covered by the single connection point for their premises”</i>)? PL: (Comments): The creation of a separate point at the customers's request may involve high costs for the customer. The reasoning behind the the entitlement to more than one meter is not entirely clear. Will customers not be able to have a separate supply contract (e.g. for heat pumps or EV) once they are equipped with smart meters? ES: (Drafting): Member States shall ensure that all customers are free to purchase electricity from the supplier of their choice. Member States shall ensure that all customers are free to have more than one electricity supply contract at the same time, and that for this purpose customers are entitled to have more than one metering and billing point covered by the single connection point for their

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	premises, unless existing smart-metering allows the aforementioned rights." ES: (Comments): In countries where smart-metering is massively deployed, such as Spain, there is no need for a dedicated metering device. PT: (Comments): There is a need to evaluate the complexity of this option, as well as the costs for the system and, eventually, for consumers, associated with the “multiplication” of meters. IE: (Comments): - Ensuring that end customers are entitled to have more than one metering and billing point covered by the single connection point for their premises will likely require substantial additional investment in metering systems, processes, and infrastructure regardless of the level of take-up. - A comprehensive review of the existing regulatory framework would likely be required to implement this proposed amendment. The central retail market systems are designed

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	for a more traditional energy market and not with decentralized arrangements, multiple suppliers or meters. • One supplier per MPRN is a fundamental principle of the existing retail electricity market design. • Any review and updates to the regulatory framework would likely have impacts on downstream agreements, systems and processes (such as the Metering Code, Settlement code etc.) • This has the potential to further delay or complicate the roll-out of smart metering systems in member states, as well as cause confusion with consumers, if the benefits are not immediately obvious. • Funding of this measure requires further consideration. If the cost falls to individual consumers, issues may arise in relation to those in energy poverty. • However, from a consumer perspective, this amendment could promote innovation, and create more diverse opportunities for competition in the markets for retail electricity and the provision of smart energy services. • It could facilitate electricity suppliers and the providers of smart energy services to compete ‘behind the meter’ and provide customers with greater levels of choice between different electricity suppliers and propositions (e.g. suppliers or energy services providers might compete by offering a range of differentiated standalone or bundled offerings for individual large demands like EVs, or an entire household’s

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	demand) • There are questions regarding the ability to separate the data on a single smart meter and pass the data to different suppliers or put in multiple meters of record at a single MPRN. • Alternatively, if the metering is on the customer side of the interface then all the sub metering has to align to the data on the meter of record. What is the impact on settlement – customer/supplier has a spec for the sub metering, etc. Do they even talk to market systems or what has to be done there. There are lots of unknowns and this could take years to resolve.
	PL: (Drafting): (6) In Article 5, new paragraph (6b) is inserted: 6b. By way of derogation from paragraphs 1 and 2, Member States may apply public interventions in the price setting for the supply of electricity to small and medium sized enterprises (SMEs). Such public interventions should be targeted at those categories of SMEs which are most exposed to the volatility of retail electricity prices and have limited possibilities to reduce their demand or hedge against sharp price increases. Such public interventions shall:

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	(a) be limited to [80%] of the beneficiary's annual consumption over the last five years and retain an incentive for demand reduction; (b) comply with the conditions set out in paragraphs (4) and (7). PL: (Comments): The recent energy price crisis has demonstrated that certain categories of SMEs (e.g. bakeries, hairdressers, etc.) are unable to hedge against price risks or significantly reduce demand without discontinuing their business activity. Member States should be able to apply regulated prices for a basic volume of electricity supplied to those customers, while at the same time preserving price signals and retaining incentives to reduce demand and implement energy efficiency measures. Such public interventions (which would not include setting prices below cost) should not be limited to periods of price crises declared by the Commission.
(3) Article 11 is amended as follows:	
(a) the title is replaced by the following:	
'Entitlement to a fixed term, fixed price and dynamic electricity price contract';	

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(b) paragraph 1 is replaced by the following:	
1. Member States shall ensure that the national regulatory framework enables suppliers to offer fixed-term, fixed-price contracts and dynamic electricity price contracts. Member States shall ensure that final customers who have a smart meter installed can request to conclude a dynamic electricity price contract and that all final customers can request to conclude a fixed-term, fixed-price electricity price contract of a duration of at least one year, with at least one supplier and with every supplier that has more than 200 000 final customers.	LT: (Comments): More clarity on how this provision would work is needed. IE: (Comments): • The availability of these contracts will give certainty to consumers but may also create upward pressure on prices, due to increased costs for suppliers. Clarity is required on whether consumers with fixed-price contracts can still participate in demand flexibility offerings with the potential to make further savings and/or support the grid. (As per comment on Article 2(15a)) DK: (Drafting): 1. Member States shall ensure that the national regulatory framework enables suppliers to offer fixed-term, fixed-price contracts and dynamic electricity price contracts. Member States shall ensure that final customers who have a smart meter installed can request to conclude a dynamic electricity price contract and that all final customers can request to conclude a fixed-

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	term, fixed-price electricity price contract with at least 50% of consumption at a fixed price of a duration of at least one year, with at least one supplier and with every supplier that has more than 200 000 final customers. DK: (Comments): It is suggested to make the fixed-term fixed-price product more subtle by setting a lower threshold for the fixed-price part of the consumption on the contract of 50%. This will allow individual suppliers to design their products according to their individual customer base and business strategy, thus increasing the likelihood of the product being taken up by consumers. Importantly, it will give consumers an incentive to act flexibly in relation to the spot prices, while maintaining a high degree of consumer protection through more stable electricity bills.
(c) the following paragraph 1a is inserted:	
1a. Prior to the conclusion or extension of any contract, final customers shall be provided with a summary of the key contractual conditions in a prominent manner and in concise and simple language.	BE: (Comments): What is the link between the precontractual obligations defined in the new paragraph 1A and the precontractual conditions already defined in article 10 (3) of the EMD Directive? LU:

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This summary shall include at least information on total price, promotions, additional services, discounts and include the rights referred to in points (a), (b), (d), (e) and (f) of Article 10(3). The Commission shall provide guidance in this regard.	(Drafting): 1a. Prior to the conclusion or extension of any contract, final customers shall be provided with a summary of the key contractual conditions in a prominent manner and in concise and simple language. This summary shall include at least information on total price and its breakdown, promotions, additional services, discounts and include the rights referred to in points (a), (b), (d), (e) and (f) of Article 10(3). The Commission shall provide guidance in this regard.
(d) paragraph 2 is replaced by the following:	
2. Member States shall ensure that final customers are fully informed by the suppliers of the opportunities, costs and risks of dynamic electricity price contracts, and shall ensure that suppliers are required to provide information to the final customers accordingly, including with regard to the need to have an adequate electricity meter installed. Regulatory authorities shall monitor the market developments and assess the risks that the new products and services	EE: (Drafting): 2. Member States shall ensure that final customers are fully informed by the suppliers of the opportunities, costs and risks of dynamic electricity price contracts, and shall ensure that suppliers are required to provide information to the final customers accordingly, including with regard to the need to have an adequate electricity meter installed. Regulatory authorities shall monitor the market developments and assess the risks that the new products and services may entail and deal with abusive practices. Regulatory authorities shall monitor the termination costs which are applied for fixed term electricity contracts, evaluate if the termination costs applied are appropriate and deal with abusive practises.

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may entail and deal with abusive practices.	EE: (Comments): Unreasonable termination costs can be applied for fixed term contracts. This should be avoided by giving regulators the power to deal with abusive behavior. ES: (Drafting): 2. Member States shall ensure that final customers are fully informed by the suppliers of the opportunities, costs and risks of dynamic electricity price contracts, and shall ensure that suppliers are required to provide information to the final customers accordingly, including with regard to the need to have an adequate electricity meter installed. Member States shall monitor the market developments and assess the risks that the new products and services may entail and deal with abusive practices. ES: (Comments): To cover the case where this matter falls under the competence of authorities other than the NRA
(4) The following Articles are inserted:	

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“Article 15a”	BE: (Comments): how should we read this article together with the provision in the RED directive? What is the difference between sharing and selling. Is selling linked to suppliers and is sharing (at zero cost) linked to active customers Can suppliers impose costs for active customers that participate in sharing? Did the commission assess what could be the impacts on tariffs? If the p2p is part of the 'energy sharing, why is the participation in the 'energy sharing more restrictive restrictive then the pp? Should we understand Public body = local authority? If not why the distinction? IT: (Drafting): We propose the elimination of the letter d). IT: (Comments):

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	On Right to energy sharing The article intends to further widen the scope for widespread self-consumption, which has recently found its own systematization in national regulation. We point out the opportunity to eliminate paragraph d) of article 15a which provides for the right of the end user to have the self-consumed energy "netted" from his purchase invoice. This provision imposes extremely complex management which would ultimately discourage any seller from supplying a customer included in a collective self-consumption scheme. It would also limit the choices that can be made by subjects participating in collective self-consumption configurations (starting from the choice of their seller for the entire amount of energy withdrawn and their intermediary, possibly different, for the management of the energy input) and it would make switching operations more complex, with the risk of representing a barrier, rather than a simplification, of self-consumption solutions. The "virtual" enhancement mechanism introduced today in Italy is considered far preferable which - with the same benefits for the end user - allows a much more orderly management of the service, safeguarding all the rights of users currently safeguarded. DK: (Comments): It is important to make it clear in the article, that imbalances are handled according to article 5 in regulation (EU) 2019/943
Right to energy sharing	LT: (Comments): LT takes scrutiny reservation for this article.

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	PL: (Comments): PL is of the opinion that further scrutiny is required regarding energy sharing. The energy sharing solutions proposed therein are far-reaching and systemic, as they are to be based mainly on innovative energy market information sharing. Moreover, as per the par. 1, the catalogue of active consumers is to become virtually universal (households, small and medium sized enterprises and public bodies). The solution may also raise risks with regards to network management, balancing and monitoring. Many issues remain unclear, e.g. who would be responsible for settlements between entities. Such privileges can create better conditions for projects that are less beneficial from the overall electricity system needs (creating additional system costs or even limiting connection possibilities) thus inhibiting development of RES. Some solutions that would allow implementation of this article are pursued via different workstreams, namely implementation of peer-to-peer trading originating from RED II. Energy sharing would require the adequate deployment of smart meters and advanced IT solutions in place, including an operational data hub. As a result, quick and widespread implementation of energy sharing may be difficult. In this respect, there is a need to find synergies between different workstreams, in order to

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	streamline the interdependent requirements – not to create additional burden on MS. Furthermore, in case there is a consensus for this solution, the timeline for implementation of this Article should be prolonged. ES: (Comments): Scrutiny reservation on this article and related provisions. IE: (Comments): The clarity provided around energy sharing is broadly welcomed
1. All households, small and medium sized enterprises and public bodies have the right to participate in energy sharing as active customers.	LT: (Comments): It is not obvious that members of citizen energy community or renewable energy community are active customers as they defined in the Directive (EU) 2019/944. On the contrary, there is a difference in the Directive (EU) 2019/944 in regulation of active customers and members of citizen energy community. According to the Directive (EU) 2019/944 Art. 15 para 2f), active customers are financially responsible for the imbalances they cause in the electricity system.

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	Differently, members of citizen energy community are not responsible for the imbalances since Art. 16 para 3c) sets this responsibility to the citizen energy community (it is a legal entity) itself. Therefore, energy sharing conception should be described form members of energy communities explicitly. BE: (Drafting): 1. All households, small and medium sized and big enterprises and public bodies have the right to participate in energy sharing as active customers. BE: (Comments): Also big enterprises provided that those activities do not constitute its primary commercial or professional activity (cfr definition active customer) EE: (Comments): SMEs can also be energy intensive companies. Definition of public bodies can be quite wide, even when including large and energy intensive companies. FR:

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Commission proposal	Drafting Suggestions Comments
	(Comments):
(a) Active customers shall be entitled to share renewable energy between themselves based on private agreements or through a legal entity.	LT: (Comments): EE: (Comments): Paragraph one states that household, SMEs and public bodies can take part in energy sharing but paragraph 1(a) states that all active customers are entitled to sharing energy. It should be clarified what market participants are expected to participate in energy sharing. DK: (Comments): It is also essential that the rights concerning energy sharing will not be changed in a way that implies a right to establish a distribution network. It is furthermore essential that energy sharing arrangements are implemented in a manner which does not circumvent applicable taxes, levies and network charges.

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(b) Active customers may use a third party that owns or manages for installation, operation, including metering and maintenance a storage or renewable energy generation facility for the purpose of facilitating energy sharing, without that third party being considered an active customer.	BE: (Drafting): (b) Active customers may use a third party that owns or manages for installation, operation, including metering and maintenance a storage or renewable energy generation facility for the purpose of facilitating energy sharing, without that third party being considered an active customer. BE: (Comments): Conflict with renewable energy community? In the renewable energy community the community needs to own the production facility Is metering not a task for the system operator when de data is needed for market processes?
(c) Member States shall ensure that active customers participating in energy sharing:	
	DK:

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	(Drafting): x) have an obligation to be financially responsible for the imbalances that they cause in the electricity system; to that extent they shall be balance responsible parties or shall delegate their balancing responsibility in accordance with Article 5 of Regulation (EU) 2019/943
(d) are entitled to have the shared electricity netted with their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable taxes, levies and network charges;	PL: (Comments): Any form of energy sharing must take into account possible impact on local electricity balance and TSO and DSO perspective; this is a form of non-physical energy transfer - in fact financial only – shared electricity can be used by the consumer (receiver) without any electricity being physically distributed, while in reality it must be distributed through DSO and TSO networks. Therefore tariff structure must take into account the effect of lost volume base. ES: (Drafting): Deletion of this paragraph ES: (Comments): We propose to eliminate paragraph d) of article 15a which provides for the right of end users to have the self-consumed energy "netted" from their invoice/bill. This provision, at least in some

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	jurisdictions, would impose unjustified and extremely complex management which would ultimately discourage any seller from supplying a customer included in a collective self-consumption scheme. Instead of hundreds of thousands bilateral contract between household consumers, it would be more efficient and simple to have a centralized – uniform sharing system to sell the surplus of electricity to the market or to be bought by your supplier, as already implemented in Spain. PT: (Comments): Seems that there are some issues related with numbering. This provision seems to be subpoint i) (included in point c)). Will affect the numbering of next provisions IT: (Drafting): (d) — are entitled to have the shared electricity netted with their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable taxes, levies and network charges; IE: (Comments): Is this implying Net metering? Is this designed to be a form of virtual self-consumption of the shared electricity generated? How does this compete with existing Article 15(2)(e) and 15(4) ? DK:

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	(Drafting): (d) are entitled to have the shared electricity netted with their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable taxes, levies and network charges. The “shared electricity” relates only to the energy consumed or produced. DK: (Comments): We note that it is positive that energy sharing must take place via the collective electricity grid. It is important that electricity grid tariffs and electricity taxes are not affected by the new article. In regards to “total metered consumption” it should be clarified if the entitlement to have the shared electricity netted applies to an individual active customer’s “total metered consumption”, or if it applies to the “total metered consumption” of a group of active customers, or both? DK suggests to make it clear that energy sharing of energy and netting of energy consumption (and production) only applies for the energy consumption/production. In DK, an electricity trading company that offers the supply of electricity to household consumers must, upon request for delivery and against payment, deliver any electrical product to household consumers within the grid area(s) where the electricity trading company offers electrical products. In relation to this article concerning energy sharing, it can be more difficult

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	for the electricity trading companies to find out how they shall deliver these products to active customers engaging in energy sharing arrangements. DK would like to have it specified, how the settlement of the shared electricity should take place between different active customers with different electricity traders? The active customers can have one electricity trader for production and another for their consumption. The Commission should therefore elaborate on how payment flows are handled within countries with a wholesale model (a supplier centric model), including in a peer-to-peer context.
(e) benefit from all consumer rights and obligations as final customers under this Directive, except in case of energy sharing between households with an installed capacity up to 10.8 kW and up to 50 kW for multi-apartment blocks using peer-to-peer trading agreements;	BE: (Comments): Why is an exception provided for P2P < 10.8 kVA or in apartments with production < 50 kVA? (50 kVA seems high by the way). These are bizarre boundaries, which are not used anywhere else. Does this mean no free choice of supplier in those cases? Which other rights and obligations are not applicable with these exceptions? Are networktariffs no longer applied for the electricity that is delivered through P2P?

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	PT: (Comments): See previous comment. The reading seems to indicate that active domestic consumers have lost their rights as consumers. Raises doubts. IE: (Comments): My understanding of consumer law is that it applies B2C and does not apply when it is C2C. Therefore, regardless of size, where sharing is C2C it is not clear what consumer law/rights would apply.
(f) have access to template contracts with fair and transparent terms and conditions for peer-to-peer trading agreements between households, and for agreements on leasing, renting or investing in storage and renewable energy generation facilities for the purpose of energy sharing; in case of conflicts arising	PT: (Comments): See previous comment. The article seems to extend the sharing concept without proximity restriction. First, it should not benefit from any tariff exemption, unlike the CER. Then you can significantly expand the scope of application of these models and create an alternative (and difficult to distinguish)

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over such agreements, final customers shall have access to out of court dispute settlement in accordance with Article 26;	channel for marketing. It has the potential to create a lot of confusion with smaller consumers. IE: (Comments): Who is responsible for providing template contracts? In relation to access to out of court dispute settlement in accordance with Art. 26, it is not clear how this would apply for C2C disputes. Particularly as Art.26 only mandates participation by electricity undertakings and not active customers. DK: (Drafting): (f) have access to template contracts with fair and transparent terms and conditions for peer-to-peer trading energy sharing agreements between households, and for agreements on leasing, renting or investing in storage and renewable energy generation facilities for the purpose of energy sharing; in case of conflicts arising over such agreements, final customers shall have access to out of court dispute settlement in accordance with Article 26;
(g) are not subject to unfair and discriminatory treatment by market participants or their balance responsible parties;	PT: (Comments): See previous comment

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(h) are informed of the possibility for changes in bidding zones in accordance with Article 14 of Regulation (EU) 2019/943 and of the fact that the right to share energy is restricted to within one and the same bidding zone.	BE: (Comments): How should be dealt with this if a bidding zones gets bigger and becomes border crossing? E.g. Lux/BEL PT: (Comments): See previous comment
(i) Member States shall ensure that relevant transmission or distribution system operators or other designated bodies:	PT: (Comments): See previous comment. This provision seems to be a new point (d). Will affect the numbering of next provisions
(j) monitor, collect, validate and communicate metering data related to the shared electricity with relevant final customers and market participants at least	PL: (Comments): These are far reaching obligations, which could require upgrading or developing new functionalities of metering data collection systems.

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every month, and in accordance with Article 23;	PT: (Comments): See previous comment This provision seems to be subpoint i) of the previous point. Will affect the numbering of next provisions DK: (Comments): It should be clarified from the Commission in more detail the different parts of the data concerning the shared electricity, which the transmission or distribution system operators should communicate to relevant final customers, and the form it should be delivered?
(k) provide a relevant contact point to register energy sharing arrangements, receive information on relevant metering points, changes in location and participation, and, where applicable, validate calculation methods in a clear, transparent and timely manner.	PL: (Drafting): (k) — provide a relevant contact point to register energy sharing arrangements, receive information on relevant metering points, changes in location and participation, and, where applicable, validate calculation methods in a clear, transparent and timely manner. PL: (Comments):

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	We perceive setting up a dedicated contact point solely for the listed purposes as unnecessarily burdensome and overly resources-consuming. PT: (Comments): See previous comment
2. Member States shall take appropriate and non-discriminatory measures to ensure that energy poor and vulnerable households can access energy sharing schemes. Those measures may include financial support measures or production allocation quota.	EE: (Drafting): Add: 3. The Commission shall provide guidance for article 15a in order to facilitate similar approach with regard to energy sharing in Member States. EE: (Comments): A guidance is necessary in order to apply common energy sharing activities in MS. NL: (Drafting): 2. Member States shall may take appropriate and non-discriminatory measures to ensure that energy poor and vulnerable households can access energy sharing schemes. Those

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	measures may include financial support measures or production allocation quota. NL: (Comments): Best to give flexibility to Member States to find the best method to ensure that energy poor and vulnerable households can be provided for. PT: (Comments): It must safeguard those who share the energy do not have costs with this sharing.
	DK: (Drafting): 3. Member States may require active customers engaging in energy sharing to pay financial compensation to other market participants or to the market participants' balance responsible parties, if those market participants or balance responsible parties are directly affected by the energy sharing. Such financial compensation shall not create a barrier to market entry for market participants engaged in energy sharing. In such cases, the financial compensation shall be strictly limited to covering the resulting costs incurred by the suppliers of active customers or the suppliers' balance responsible parties during the energy sharing. The method for calculating compensation may take account of the benefits brought about by the active customers to other market participants for example distribution system operators and, where it

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	does so, the participating active customers may be required to contribute to such compensation but only where and to the extent that the benefits to all suppliers, customers, their balance responsible parties and distribution system operators do not exceed the direct costs incurred. The calculation method shall be subject to approval by the regulatory authority or by another competent national authority.
“Article 18a	
Supplier risk management	ES: (Comments): Article 18a, on supplier risk management imposes hedging obligations on suppliers, potentially including obligations to hedge through PPAs. In our view, these provisions could result in vertically integrated retailers obtaining a substantial competitive advantage with respect to independent retailers.
1. National Regulatory Authorities shall ensure that suppliers have in place and implement appropriate hedging strategies to	BE: (Comments): How can this be met/checked if not chosen for the use of power purchase agreements?

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limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets.	What is included in appropriate hedging strategies to be implemented by suppliers? ES: (Drafting): 1. National Regulatory Authorities may ensure that suppliers have in place and implement appropriate hedging strategies to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets. ES: (Comments): NRAs should have flexibility in putting in place hedging strategies in order to avoid excessive additional costs to consumers IT: (Drafting): “National Regulatory Authorities shall may ensure that suppliers have in place and implement appropriate hedging strategies to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers,…….” IT:

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	(Comments): We propose to repeal or to replace "shall ensure" with "may" or other less binding formulation. This is a provision that has also been much criticized by European regulators. It is proposed to eliminate the first paragraph because it places an obligation on the Authority to verify the existence of hedging contracts in the sellers' portfolios. It is not considered appropriate to oblige vendors to have coverage and in any case the administrative burden of carrying out a similar check on hundreds of companies would be difficult to manage. As a compromise, consider replacing “shall ensure” with “may” or another less binding wording. IE: (Comments): Difficult for NRAs to monitor supplier hedging strategies and ensure that they are appropriate. CZ: (Comments): We are of the opinion that this approach might pose a significant risk in the future. Since the approach is based on the assumption of high prices and, is in itself, a reaction to the situation in 2022, we feel the need to highlight, that once the situation stabilises, suppliers might be locked into very unfavourable terms.

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	Czechia has faced issues in the past, where a sudden drop in prices resulted in a de facto bankruptcy of a major supplier, and we are concerned that the current proposals might lead to situation where a supplier will hedge at a certain amount and will find itself uncompetitive in the future, when the prices will decrease, this leading to a possible bankruptcy. Additionally, new suppliers might benefit from such a drop in prices, since old suppliers will be hedged at higher prices in contracts that they cannot exit.
2. Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the	ES: (Drafting): 2. Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law. The aforementioned obligation may be modulated according to each supplier's size or its market structure. ES:

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consumer side, subject to compliance with Union competition law.	(Comments): Another option would be to include a provision at the end of this paragraph to consider the existence of vertically integrated companies: When applying this provision, Member States shall put effective measures in place in cases where suppliers are controlled, or partially owned, by other undertakings, in particular where they are part of a vertically integrated undertaking CZ: (Drafting): 2. Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law. CZ: (Comments): Actual choice of hedging tools shall be left to the individual supplier. DK:

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	(Drafting): 2. ——— Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law. DK: (Comments): DK generally believes that PPA's should not be forced to be included in supplier hedging strategies, as this will negatively affect liquidity in the electricity markets. It will also affect Member State negatively if this is implemented in other Member States. We therefore suggest to remove this option for all Member States. Suppliers can still voluntarily enter into PPA's if they wish to do so. If the provision remains in this article, it is important that it remains on a voluntary basis for suppliers to use PPA's as a part of their price hedging portfolio. FR: (Drafting):

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	2. Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable and low-carbon energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law.
3. Member States shall endeavour to ensure the accessibility of hedging products for citizen energy communities and renewable energy communities."	BE: (Comments): What is the meaning and purpose of this paragraph? Is this applicable when REC of CEC's are also the electricity supplier for the members? Can the Commission clarify what would the impact of this provision on REC and CEC's?
(5) The following Article XX is inserted:	ES: (Comments): Article with an incomplete reference XXX

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Commission proposal	Drafting Suggestions Comments
	PT: (Drafting): (5) The following Articles s are XX is inserted: PT: (Comments): Text adjustment
“Article 27a	DK: (Comments): There already today is a framework for universal service in place in DK, as also mentioned by other MS.
Supplier of last resort	BE: (Comments): Are the different BE actual implementations of this principle compliant with this new article?

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Commission proposal	Drafting Suggestions Comments
1. Member States shall appoint suppliers of last resort at least for household customers. Suppliers of last resort shall be appointed in a fair, open, transparent and non-discriminatory procedure.	LT: (Drafting): 1. Member States which do not have supplier of last resort shall appoint suppliers of last resort at least for household customers. Suppliers of last resort shall be appointed in a fair, open, transparent and non-discriminatory procedure. LT: (Comments): The article must provide more flexibility for MS that already implement this provision. Or to describe how similar national provisions should be combined. For MS which already have appointed SOLR such provision is redundant and may constitute legal disputes with regards retroactively applied rules, also it may undermine investments done by already appointed SOLR to provide the needed services (in case existing SOLR would not be selected during open tender). BE: (Drafting): That supplier might be the sales division of a vertically integrated undertaking which also performs distribution functions, provided that it meets the unbundling requirements of Article 35 of Directive (EU) 2019/944 of the European Parliament and of the Council. Member States

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	shall appoint suppliers of last resort at least for household customers. Suppliers of last resort shall be appointed in a fair, open, transparent and non-discriminatory procedure. BE: (Comments): What if the fair, open, transparent and non-discriminatory procedure doesn't lead to the selection of a supplier of last resort? We need a possibility for the member state to choose how to appoint a SOLR. NL: (Drafting): Member States shall implement a regime to ensure the continuity of supply for household consumers. When appointing suppliers of last resort, they should be appointed in a fair, open, transparent and non-discriminatory procedure. NL: (Comments): Best to give flexibility to Member States to find the best method to ensure continuity of supply in a way that suits their local market dynamics and with least interference. PL: (Drafting): Suppliers of last resort shall be appointed in a fair, open, transparent and non-discriminatory

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	procedure. The appointment of the supplier of last resort may take into account the security of supply, regularity, quality and price of supplies. PL: (Comments): As this is a last resort measure there is a need to apply tailored appointment procedure . ES: (Drafting): 1. Member States shall appoint suppliers of last resort at least for household customers. For new designated suppliers of last resort, they shall be appointed in a fair, open, transparent and non-discriminatory procedure. ES: (Comments): The application of this article needs to maintain the existing framework for the supply of last resort in those Member States that already have it. CZ: (Drafting): 1. Member States shall appoint suppliers of last resort at least for household customers. Suppliers of last resort shall be appointed in a fair, open, transparent and non-discriminatory

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Commission proposal	Drafting Suggestions Comments
	procedure. OR 1. Member States shall appoint suppliers of last resort at least for household customers. Suppliers of last resort shall be appointed in a fair, open, and transparent and non-discriminatory procedure. CZ: (Comments): Member states should be given freedom on the selection procedure of the supplier of the last result. These are super vital in times of crisis and special requirements on their stability are needed. This institute worked well during the recent energy crisis in the Czech Republic and we do not see any reason to change it. Given our experience with the fall of major independent energy suppliers just before the war in Ukraine started, member States shall have a right to do a pre-selection, respectively to have higher requirements on suppliers of last result, not purely based on cost-competition and that is why the selection procedure shall not be fully opened to every market participant. DK: (Drafting): 1. Member States shall ensure that a system is in place regarding delivery and continuity of service to household customers. Suppliers of last resort shall be appointed in a fair, open,

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	transparent and non-discriminatory procedure.
2. Final customers who are transferred to suppliers of last resort shall not lose their rights as customers, in particular those rights laid down in Articles 4, 10, 11, 12, 14, 18 and 26.	BE: (Drafting): 2. Final customers who are transferred to suppliers of last resort shall not lose their rights as customers, in particular those rights laid down in Articles 4, 10, 11, 12, 14, 18 and 26. BE: (Comments): Art 11: Entitlement to a fixed and dynamic electricity price contract Prefer to keep it simple. Does that also mean that the comparison tools must include the contract “offered” by the supplier of last resort? PL: (Drafting): in particular those rights laid down in Articles 4, 10, 11, 12, 14, 18 and 26. PL: (Comments):

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	This is a last resort measure. Some requirements (e.g. free choice of supplier, entitlement to a dynamic electricity price contract) should not apply in case of suppliers of last resort.
3. Member States shall ensure that suppliers of last resort promptly communicate the terms and conditions to transferred customers and ensure seamless continuity of service for those customers for at least 6 months.	IE: (Comments): Not clear what the intent here is - if it is however to 'lock in' customers to an SOLR for a 6 month period, this is not desirable and not in the best interest of consumers - recent ROI SOLR experience shows that different lengths of 'lock in' periods post SOLR are useful, tailored to the situation, and that longer lock ins are not always desirable DK: (Drafting): 3. Member States shall ensure that suppliers of last resort promptly communicate the terms and conditions to transferred customers and ensure seamless continuity of service for those customers for at least 6 months. DK: (Comments): The sentence “...ensure seamless continuity of service for those customers for at least 6 months” may be misunderstood in two ways: Either that 1) the new supplier is not obliged to deliver the service for more than 6 months, and 2) the supplier is under any condition obliged to deliver the service, i.e. even if the customer does not pay for the delivery.

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4. Member States shall ensure that final customers are provided with information and encouragement to switch to a market-based offer.	
5. Member States may require the supplier of last resort to supply electricity to household customers who do not receive market based offers. In such cases, the conditions set out in Article 5 shall apply.”	BE: (Comments): Supplier when consumer drops from commercial market? What is the concrete aim of this new provision? This “activity” could be exercised by another actor than the supplier of last resort, for instance, the DSO as a public service obligation? FR: (Drafting): 5. Member States may require the a supplier of last resort to supply electricity to household customers who do not receive market based offers. In such cases, the conditions set out in Article 5 shall apply.”

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Commission proposal	Drafting Suggestions Comments
	FR: (Comments): It would be useful to allow member states to differentiate the supplier of last resort and the supplier that has to supply electricity to household customers who do not receive market based offers
Article 28a	
Protection from disconnections for vulnerable customers	LT: (Comments): The article must provide more flexibility for MS that has already implemented this provision. BE: (Comments): What is the concrete aim of this new provision? Are the shemes that the different BE enetities do already have in place sufficient? (e.g. in Flanderes After a drop by the supplier → budget meter at DSO and if credit has been used up, an emergency credit can be used.)

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Commission proposal	Drafting Suggestions Comments
Member States shall ensure that vulnerable customers are protected from electricity disconnections. This shall be provided as part of the concept of vulnerable customers pursuant to Article 28 (1) of this Directive and without prejudice to the measures set out in Article10(11).	NL: (Drafting): Member States shall ensure that at least vulnerable customers are protected from electricity disconnections. This shall be provided as part of the concept of vulnerable customers pursuant to Article 28 (1) of this Directive and without prejudice to the measures set out in Article10(11). NL: (Comments): Important for Member States to be able to make own assesment of who considered to be vulnareble, to not make this definition to narrow. LU: (Drafting): Member States shall ensure that vulnerable customers are protected from electricity disconnections <u>are forbidden</u>. <u>This shall be provided as part of the concept of vulnerable customers pursuant to Article 28 (1) of this Directive and without prejudice to the measures set out in Article10(11).</u> <u>Household customers shall be entitled to receive electricity supply to cover their basic needs in all circumstances.</u>

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Commission proposal	Drafting Suggestions Comments
	LU: (Comments): Dosconnections should be forbidden throughout the EU. Where are bills are not paid, capacity could be reduced but never fully interrupted in order to allow household customers to cover their basic energy needs. DK: (Drafting): Member States shall strive to ensure that vulnerable customers are protected from electricity disconnections. This shall be provided as part of the concept of vulnerable customers pursuant to Article 28 (1) of this Directive and without prejudice to the measures set out in Article10(11). DK: (Comments): It can be difficult to assess the practical consequences of the proposed provision, i.e. it should reflect there should be implemented strenghtened requirements aimed at making it very difficult for suppliers to disconnect customers/vulnerable customers.
(6) in Article 27, paragraph 1 is replaced by the following:	

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Commission proposal	Drafting Suggestions Comments
“1. Member States shall ensure that all household customers, and, where Member States consider it appropriate, small enterprises, enjoy universal service, namely the right to be supplied with electricity of a specified quality within their territory at competitive, easily and clearly comparable, transparent and non-discriminatory prices. To ensure the provision of universal service, Member States shall impose on distribution system operators an obligation to connect customers to their network under terms, conditions and tariffs set in accordance with the procedure laid down in Article 59(7). This Directive does not prevent Member States from strengthening the market position of the household customers and small and medium-sized non-household customers by promoting the possibilities for	BE: (Comments): “terms and conditions’ mean that a customer needs to have an offtake contract with a supplier?”

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Commission proposal	Drafting Suggestions Comments
the voluntary aggregation of representation for that class of customers.”	
(7) In Article 31, paragraph 3 is replaced by the following:	
“3. The distribution system operator shall provide system users with the information they need for efficient access to, including use of, the system. In particular, the distribution system operator shall publish in a clear and transparent manner information on the capacity available for new connections in its area of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least quarterly.	BE: (Comments): Granularity of the information on the capacity available for new connections to make it feasible for the dso? EE: (Drafting): “3. The distribution system operator shall provide system users with the information they need for efficient access to, including use of, the system. In particular, the distribution system operator shall publish in a clear and transparent manner information on the capacity available for new connections in its area of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least monthly. EE:

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Commission proposal	Drafting Suggestions Comments
	(Comments): Quarterly information is not enough. Changes in distribution network happen quite quickly. DK: (Comments): Why are only flexible energy storage connections mentioned in regard to congested areas? FR: (Drafting): “3. The distribution system operator which serve more than 100 000 connected customers shall provide system users with the information they need for efficient access to, including use of, the system. In particular, the distribution system operator which serve more than 100 000 connected customers shall publish in a clear and transparent manner information on the capacity available for new connections in its area of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least quarterly. FR: (Comments): Such a service requires human and IT resources that the small network operators may not have.

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Commission proposal	Drafting Suggestions Comments
Distribution system operators shall also provide clear and transparent information to system users about the status and treatment of their connection requests. They shall provide such information within a period of three months from the submission of the request.”	EE: (Comments): Three months is too long. Please explain what information needs to be provided. FR: (Drafting): Distribution system operators which serve more than 100 000 connected customers shall also provide clear and transparent information to system users about the status and treatment of their connection requests. They shall provide such information within a period of three months from the submission of the request.” FR: (Comments): Such a service requires human and IT resources that the small network operators may not have.
(8) Article 40 is amended as follows:	
[a] a new paragraph is added after	

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Commission proposal	Drafting Suggestions Comments
paragraph 6:	
The requirements in paragraphs 5 and 6 shall not apply with regard to the peak shaving product procured in accordance with Article 7a of Regulation (EU) 2019/943.	PT: (Drafting): 6a. The requirements in paragraphs 5 and 6 shall not apply with regard to the peak shaving product procured in accordance with Article 7a of Regulation (EU) 2019/943. PT: (Comments): If it is a new paragraph, it should be numbered.
(9) Article 59 is amended as follows:	
[a] In paragraph 1, subparagraph (c) is replaced by the following:	
(c), in close coordination with the other regulatory authorities, ensuring the compliance of the single allocation platform established in accordance with Regulation	

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(EU) 2016/1719, the ENTSO for Electricity and the EU DSO entity with their obligations under this Directive, Regulation (EU) 2019/943, the network codes and guidelines adopted pursuant to Articles 59, 60 and 61 of Regulation (EU) 2019/943, and other relevant Union law, including as regards cross-border issues, as well as with ACER's decisions, and jointly identifying non-compliance of the single allocation platform, the ENTSO for Electricity and the EU DSO entity with their respective obligations; where the regulatory authorities have not been able to reach an agreement within a period of four months after the start of consultations for the purpose of jointly identifying non-compliance, the matter shall be referred to the ACER for a decision, pursuant to Article 6(10) of Regulation (EU) 2019/942;	

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Commission proposal	Drafting Suggestions Comments
[b] In paragraph 1, subparagraph (z) is replaced by the following:	
(z) The regulatory authority shall have the following duties: monitoring the removal of unjustified obstacles to and restrictions on the development of consumption of self-generated electricity and citizen energy communities, including related to the connection of flexible distributed energy generation within a reasonable time in accordance with Article 58(d).	
[c] paragraph 4 is replaced by the following:	
4. The regulatory authority located in the Member State in which the single allocation platform, the ENTSO for Electricity or the EU DSO entity has its seat shall have the power to impose effective, proportionate and	

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dissuasive penalties on those entities where they do not comply with their obligations under this Directive, Regulation (EU) 2019/943 or any relevant legally binding decisions of the regulatory authority or of ACER, or to propose that a competent court impose such penalties.	
(10) the following Article 66a is inserted	NL: (Drafting): (10) the following Article 66a is inserted NL: (Comments): NL feels that the changes to the EMD should in principle preclude the necessity of a further continuation of price regulation after this crisis.
“Article 66a	NL: (Drafting):

COMMENTS FROM:

LT BE EE NL PL MT PT IT IE LU CZ DK FR HU ES

Commission proposal	Drafting Suggestions Comments
	“Article 66a IE: (Comments): The proposed measure in relation to an emergency framework for below cost regulated prices is a significant departure from the current policy and regulatory regime in Ireland. Retail prices are not and have not been regulated since 2011/2014. Depending on how this below cost regulated prices measure is financed there would be significant implications for suppliers’ liquidity or Member States finances. In addition, as prices have not been regulated in Ireland for many years, implementing such a framework on a short term, emergency basis would be very challenging and potentially a retrograde step.
Access to affordable energy during an electricity price crisis	BE: (Comments): Although enshrining conditions for declaring a price crisis – and hence price regulation – is welcomed, it seems that the conditions are too much based on the current crisis, in essence very high. Above that there might be a need for differentiated treatment in terms of conditions for regional and EU wide emergency price regulation NL:

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Commission proposal	Drafting Suggestions Comments
	(Drafting): Access to affordable energy during an electricity price crisis PT: (Comments): Being an emergency clause for crisis situations and with the aim of protecting consumers, in particular the most vulnerable, from excessively high prices, we consider that the combination of requirements is difficult to achieve. Therefore, we point out that it is necessary to create a safeguard clause that allows caps to be placed on prices, similar to the exceptional MIBEL mechanism, so that in atypical and even unpredictable situations, the impact of an increase can be exclusively and exceptionally limited. of prices at final consumers without jeopardizing the functioning of the market. It should not be possible to set prices below cost, since this would imply, under the terms of the proposal, the financial compensation of suppliers who would also apply regulated prices below cost, thus resulting in a debt that is potentially very significant.
1. The Commission may by decision declare a regional or Union-wide electricity price crisis, if the following conditions are met:	LT: (Drafting): 1. The Commission Member State may by decision declare a regional or Union-wide an

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Commission proposal	Drafting Suggestions Comments
	electricity price crisis, if the following conditions are met: LT: (Comments): Following the principles of subsidiarity and proportionality, LT do not supports proposal to appoint Commission with the right to declare electricity price crisis. Such decisions must be taken at the national level. Electricity prices in wholesale electricity market differs across EU, references to the “average price” do not provide a clear reference point. EE: (Drafting): 1. The Commission may by decision declare a regional or Union-wide electricity price crisis, if the following conditions are met: EE: (Comments): Will the Commission task some authority to gather information necessary for such decision? Could this task be given to ACER? NL: (Drafting): 1. The Commission may by decision declare a regional or Union-wide electricity price

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Commission proposal	Drafting Suggestions Comments
	crisis, if the following conditions are met: PL: (Comments): Member States should have more flexibility to introduce support measures during energy price spikes. Is it necessary for all three conditions to be met in all Member States to declare an Union-wide electricity price crisis? PT: (Comments): Despite the doubts on the conditions proposed below, the process to this declaration could also be launched by Member States. See the generic comment in the beginning of the document DK: (Comments): It is important this decision is maintained by the Commission, and that strict conditions are maintained when the decision is put forward and during the period of the declared price crisis. FR: (Drafting): 1. The Commission may by decision declare a regional or Union-wide electricity A price

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Commission proposal	Drafting Suggestions Comments
	crisis situation occurs , if the following conditions are met:
(a) very high prices in wholesale electricity markets at least two and a half times the average price during the previous 5 years which is expected to continue for at least 6 months;	LT: (Drafting): (a) very high prices in wholesale electricity markets market at least two and a half times 40% higher than the average price during the previous 5 years which is expected to continue for at least 6 3 months; LT: (Comments): Electricity prices in wholesale electricity market differs across EU, references to the “average price” do not provide a clear reference point. Proposed crisis mode activation criteria of 2,5 times higher price forecated to last at least 6 month is not acceptable (proposed reference price is too high and the period is too long). Year 2022 was already exceptionally high price year and should be excluded. BE: (Comments): in which price/product/market/country? Spot, day ahead, baseload,... EE:

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
	(Drafting): (a) very high average monthly prices for at least 2 months in day-ahead electricity markets at least two and a half times the average price during the previous 5 years; EE: (Comments): It is hard to evaluate the continuing of price peaks in some cases. Therefore we propose to add concrete time for how long the high prices have to occur before the electricity price crisis can be declared. It can be i.e. 2 months. NL: (Drafting): (a) — very high prices in wholesale electricity markets at least two and a half times the average price during the previous 5 years which is expected to continue for at least 6 months; PL: (Comments): The conditions are very restrictive and seem hard to satisfy. It is unclear how the Commission would assess whether high prices are expected to continue for at least 6 months. PT: (Comments):

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Commission proposal	Drafting Suggestions Comments
	How is this condition fulfilled, taking into account the diversity of wholesale markets? How will it be foreseen the period of 6 months? FR: (Drafting): (a) very high prices in wholesale electricity markets at least two and a half times the average price during the previous 5 years FR: (Comments): we think that the decision to declare a price crises cannot rely on such parameters since a situation where the thresholds are reached for some states and not for others wouldn't be understandable for our citizens if the prices are close.
(b) sharp increases in electricity retail prices of at least 70% occur which are expected to continue for at least 6 months; and	LT: (Drafting): (b) sharp increases in electricity retail prices of at least 70 40% occur which are expected to continue for at least 6 3 months; and BE: (Comments):

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
	Why different conditions for households and enterprises? Why only small and medium sized enterprises? certain large (electro-intensive) companies more affected by high electricity prices Public entities? EE: (Drafting): Delete EE: (Comments): Such condition is unnecessary because the first condition covers the aspects relating to price changes. Retail prices might not change for a long time after crisis on wholesale market has started. NL: (Drafting): (b) — sharp increases in electricity retail prices of at least 70% occur which are expected to continue for at least 6 months; and PL:

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
	(Comments): The conditions are very restrictive. It is unclear how the Commission would assess whether high prices are expected to continue for at least 6 months. PT: (Comments): Same as the previous comment. How is the increase evaluated? What is the baseline? FR: (Drafting): (b) expected sharp increases in or very high electricity retail prices of at least 70% occur which are expected to continue for at least 6 months; and FR: (Comments): we think that the decision to declare a price crises cannot rely on such parameters since a situation where the thresholds are reached for some states and not for others wouldn't be understandable for our citizens if the prices are close. MT: (Comments):

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Commission proposal	Drafting Suggestions Comments
	This condition would largely depend on the level of intervention by different Member States and therefore not be an ideal indicator of an ongoing electricity price crisis.
(c) the wider economy is being negatively affected by the increases in electricity prices.	NL: (Drafting): (c) — the wider economy is being negatively affected by the increases in electricity prices.
2. The Commission shall specify in its decision declaring a regional or Union-wide electricity price crisis the period of validity of that decision which may be for a period of up to one year.	LT: (Drafting): 2. The Commission Member State shall specify in its decision declaring a regional or Union-wide an electricity price crisis the period of validity of that decision which may be for a period of up to one year. NL: (Drafting): 2. — The Commission shall specify in its decision declaring a regional or Union-wide electricity price crisis the period of validity of that decision which may be for a period of up to one year. ES:

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
	(Drafting): 2. The Commission shall specify in its decision declaring a regional or Union-wide electricity price crisis the period of validity of that decision which may be for a period of up to one year. In any case, the declaration of such regional or Union-wide electricity price crisis shall ensure a level playing field across all Member States affected by the decision so that the internal market is not unduly distorted. ES: (Comments): The proposal relies on the effectiveness of the budgetary support implemented by each Member States, contrary to the internal market. Note that in many countries, such as Spain, SMEs generate the bulk of GDP (70% in the Spanish case) and a substantial share of exports. Thus, SMEs at countries without the fiscal capacity to subsidise electricity prices will be at a competitive disadvantage, thus distorting the functioning of the internal market. DK: (Drafting): The Commission shall specify in its decision declaring a regional or Union-wide electricity price crisis the period of validity of that decision which has a sunset clause after one year, and therefore cannot be extended longer than one year. may be for a period of up to one year. DK:

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Commission proposal	Drafting Suggestions Comments
	(Comments): It is important that a state of crisis is not maintained for a longer time. Therefore, Denmark considers it important to incorporate a sunset clause in the paragraph (i.e. as it will not be possible to prolong with another year thereafter). FR: (Drafting): 2. — The Commission shall specify in its decision declaring a regional or Union-wide electricity price crisis the period of validity of that decision which may be for a period of up to one year.
3. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision apply targeted public interventions in price setting for the supply of electricity to small and medium sized enterprises. Such public interventions shall:	LT: (Drafting): 3. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision apply targeted public interventions in price setting for the supply of electricity to small and medium sized enterprises. Such public interventions shall: NL: (Drafting):

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
	3. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision apply targeted public interventions in price setting for the supply of electricity to small and medium sized enterprises. Such public interventions shall: FR: (Drafting): 3. In a situation of price crisis, Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision apply targeted temporary public interventions in price setting for the supply of electricity to small and medium sized enterprises.
(a) be limited to at most 70% of the beneficiary's consumption during the same period of the previous year and retain an incentive for demand reduction;	NL: (Drafting): (a) be limited to at most 70% of the beneficiary's consumption during the same period of the previous year and retain an incentive for demand reduction; PL: (Comments): What about new customers who have no historical consumption? There should be a more flexible approach.

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
(b) comply with the conditions set out in Article 5(4) and (7);	BE: (Comments): Why is this not foreseen as for households? NL: (Drafting): (b) — comply with the conditions set out in Article 5(4) and (7);
(c) where relevant, comply with the conditions set out in Paragraph 4.	NL: (Drafting): (c) — where relevant, comply with the conditions set out in Paragraph 4.
4. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision, by way of derogation from Article 5(7), point (c), when applying targeted	BE: (Comments): Why not more targeted, dedicated? Vulnerable customers? NL:

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Commission proposal	Drafting Suggestions Comments
public interventions in price setting for the supply of electricity pursuant to Article 5(6) or paragraph 3 of this Article, exceptionally and temporarily set a price for the supply of electricity which is below cost provided that the following conditions are fulfilled:	(Drafting): 4. — Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision, by way of derogation from Article 5(7), point (e), when applying targeted public interventions in price setting for the supply of electricity pursuant to Article 5(6) or paragraph 3 of this Article, exceptionally and temporarily set a price for the supply of electricity which is below cost provided that the following conditions are fulfilled: FR: (Drafting): 4. In a situation of price crisis, Where the Commission has adopted a decision pursuant to paragraph 1, Member States may apply temporary public interventions in price setting for the supply of electricity to household customers and to microenterprises for the duration of the validity of that decision, and by way of derogation from Article 5(7), point (c), when applying targeted such public interventions or public interventions in price setting for the supply of electricity pursuant to Article 5(6) or pursuant to paragraph 3 of this Article, may exceptionally and temporarily set a price for the supply of electricity which is below cost provided that the following conditions are fulfilled: FR: (Comments): The initial formulation could be understood as if this crisis interventions shall apply only if an

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Commission proposal	Drafting Suggestions Comments
	intervention is already in place pursuant article 5(6).
(a) the price set for households only applies to at most 80% of median household consumption and retains an incentive for demand reduction;	BE: (Drafting): (a) the price set for households only applies to at most 80% of median household consumption offtake and retains an incentive for demand reduction; BE: (Comments): Relevance of median household consumption? Incentive for a consumer with low offtake? NL: (Drafting): (a) — the price set for households only applies to at most 80% of median household consumption and retains an incentive for demand reduction; PL: (Comments): There are groups of households customers that should be able to take advantage of a larger volume, e.g. large families, disabled. There should be a more flexible approach. FR:

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Commission proposal	Drafting Suggestions Comments
	(Drafting): (a) the price set for households only applies to at most 80% of median household consumption and retains an incentive for demand reduction;
(b) there is no discrimination between suppliers;	NL: (Drafting): (b) — there is no discrimination between suppliers;
(c) suppliers are compensated for supplying below cost; and	BE: (Comments): How can MS ensure the necessary financing for this? NL: (Drafting): (c) — suppliers are compensated for supplying below cost; and
(d) all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same	NL: (Drafting):

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Commission proposal	Drafting Suggestions Comments
basis.	(d) — all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same basis.
(11) in Article 71, paragraph 1 is replaced by the following:	
‘1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 points 8 and 49, Articles 3 and 5, Article 6(2) and (3), Article 7(1), point (j) and (l) of Article 8(2), Article 9(2), Article 10(2) to (12), Article 11(3) and (4), Articles 12 to 24, Articles 26, 28 and 29, Article 31(1), (2) and (4) to (10); Articles 32 to 34 and 36, Article 38(2), Articles 40 and 42, point (d) of Article 46(2), Articles 51 and 54, Articles 57 to 58, Article 59(1) points (a), (b) and (d) to (y), Article 59(2) and (3), Article 59(5) to (10), Articles 61 to 63, points (1) to (3), (5)(b) and	

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Commission proposal	Drafting Suggestions Comments
(6) of Article 70 and Annexes I and II by 31 December 2020. They shall immediately communicate the text of those provisions to the Commission.	
However, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with:	
(a) point (5)(a) of Article 70 by 31 December 2019;	
(b) point (4) of Article 70 by 25 October 2020.	
Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 points 10a, 10b, 15a, 24a, Article 4, Article 11(1), (1a) and (2), Article 15a, Article 18a, Article 27(1), Article 27a, Article 28a, Article	BE: (Drafting): Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 points 10a, 10b, 15a, 24a, Article 4, Article 11(1), (1a) and (2), Article 15a, Article 18a, Article 27(1), Article 27a, Article 28a, Article 31(3), Article 40(7), Article 59(1) points (c) and (z), Article 59(4) and Article 66a by six eighteen months

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
31(3), Article 40(7), Article 59(1) points (c) and (z), Article 59(4) and Article 66a by six months after entry into force of this Regulation.	after entry into force of this Regulation. PL: (Drafting): Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 points 10a, 10b, 15a, 24a, Article 4, Article 11(1), (1a) and (2), Article 15a, Article 18a, Article 27(1), Article 27a, Article 28a, Article 31(3), Article 40(7), Article 59(1) points (c) and (z), Article 59(4) and Article 66a by six three years months after entry into force of this Regulation. PL: (Comments): The proposed period of transposition is unrealistic, taking into account the number of proposed changes, new institutions, obligations on Member States, NRAs, TSOs, DSOs and market participants. It should be noted that in practice implementation will be possible after the adoption of detailed methodologies implementing the regulation. Only after the adoption of these methodologies it will be possible to undertake implementation works that will take time e.g. in IT systems. CZ: (Comments): Six months is a very short time to complete legislative processes on Member state level. The suggestion is to prolong this timeline to at least 12 (twelve) months.

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Commission proposal	Drafting Suggestions Comments
	MT: (Drafting): Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 points 10a, 10b, 15a, 24a, Article 4, Article 11(1), (1a) and (2), Article 15a, Article 18a, Article 27(1), Article 27a, Article 28a, Article 31(3), Article 40(7), Article 59(1) points (c) and (z), Article 59(4) and Article 66a by six twelve months after entry into force of this Regulation. MT: (Comments): Malta suggests extending the transposition deadline for new elements from 6 to 12 months after entry into force.
When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to	

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Commission proposal	Drafting Suggestions Comments
the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.’	
Article 3	LU: (Drafting): <u>Delete</u> LU: (Comments): The renewable energy directive should not be amended.
Amendment to Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources	
Directive (EU) 2018/2001 is amended as	

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Commission proposal	Drafting Suggestions Comments
follows:	
(1) Article 4(3) is amended as follows:	
(a) the second subparagraph is replaced by the following:	
'To that end, with regard to direct price support schemes, support shall be granted in the form of a market premium, which could be, inter alia, sliding or fixed. This sentence shall not apply to support for electricity from the renewable sources listed in Article 19b(2) of Regulation (EU) 2019/944, to which Article 19b(1) of that Regulation applies.'	BE: (Comments): Calls with investment support are not possible anymore?
(2) in Article 36, paragraph 1 is replaced by the following:	

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Commission proposal	Drafting Suggestions Comments
‘1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2 to 13, 15 to 31 and 37 and Annexes II, III and V to IX, by 30 June 2021. However, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 4(3), second subparagraph, by [six months after entry into force of this Regulation].	PL: (Drafting): ‘1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2 to 13, 15 to 31 and 37 and Annexes II, III and V to IX, by 30 June 2021. However, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 4(3), second subparagraph, by [six eighteen months after entry into force of this Regulation]. PL: (Comments): The proposed period of 6 months for such far-reaching adjustments to the MS legal order is overly ambitious. In some cases changes of support schemes may be required. CZ: (Comments): Six months is a very short time to complete legislative processes on Member state level. The suggestion is to prolong this timeline to at least 12 (twelve) months.
They shall immediately communicate the text of those measures to the Commission.	

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.’	
Article 4	
Amendments to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy	

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
Regulators	
Regulation (EU) 2019/942 is amended as follows:	
(1) Article 2 is amended as follows:	
(a) point (a) is replaced by the following:	
‘(a) issue opinions and recommendations addressed to transmission system operators, the ENTSO for Electricity, the ENTSO for Gas, the EU DSO Entity, the single allocation platform established in accordance with Regulation (EU) 2016/1719, regional coordination centres and nominated electricity market operators ,on approving the methodologies, terms and conditions in accordance with Article 4(4), Article 5(2), (3) and (4); on bidding zones reviews as referred	PL: (Drafting): ‘(a) issue opinions and recommendations addressed to transmission system operators, the ENTSO for Electricity, the ENTSO for Gas, the EU DSO Entity, the single allocation platform established in accordance with Regulation (EU) 2016/1719, regional coordination centres and nominated electricity market operators ,on approving the methodologies, terms and conditions in accordance with Article 4(4), Article 5(2), (3) and (4); on bidding zones reviews as referred to in Article 5(7); on technical issues as referred to in Article 6(1); on arbitration between regulators in accordance with Article 6(10); related to regional coordination centres as referred to in Article 7(2), point (a); on approving and amending methodologies and calculations and

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
to in Article 5(7); on technical issues as referred to in Article 6(1); on arbitration between regulators in accordance with Article 6(10); related to regional coordination centres as referred to in Article 7(2), point (a); on approving and amending methodologies and calculations and technical specifications as referred to in Article 9(1); on approving and amending methodologies as referred to in Article 9(3); on exemptions as referred to in Article 10; on infrastructure as referred to in Article 11 point (d); on matters related to wholesale market integrity and transparency pursuant to Article 12;'	technical specifications as referred to in Article 9(1); on approving and amending methodologies as referred to in Article 9(3); on exemptions as referred to in Article 10; on infrastructure as referred to in Article 11 point (d); on matters related to wholesale market integrity and transparency pursuant to Article 12;' PL: (Comments): Poland proposes to delete this fragment as it creates confusions with the role of additional opinions and recommendations. Please provide more reasoning behind these proposal.
(b) point (d) is replaced by the following:	
“ (d) issue individual decisions on the provision of information in accordance with Article 3(2), Article 7(2), point (b), and	HU (Drafting):

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Commission proposal	Drafting Suggestions Comments
Article 8, point (c); on approving the methodologies, terms and conditions in accordance with Article 4(4), Article 5(2), (3) and (4); on bidding zones reviews as referred to in Article 5(7); on technical issues as referred to in Article 6(1); on arbitration between regulators in accordance with Article 6(10); related to regional coordination centres as referred to in Article 7(2), point (a); on approving and amending methodologies and calculations and technical specifications as referred to in Article 9(1); on approving and amending methodologies as referred to in Article 9(3); on exemptions as referred to in Article 10; on infrastructure as referred to in Article 11, point (d); on matters related to wholesale market integrity and transparency pursuant to Article 12, on approving and amending proposals from the ENTSO for electricity related to the regional	... on matters related to wholesale market integrity and transparency pursuant to Article 12, on approving and amending proposals from the ENTSO for electricity related to the regional virtual hubs if established based on the detailed assesment pursuant to Article 5(9); and on approving and amending proposals from the ENTSO for electricity and the EU DSO entity related to the methodology concerning the data and analysis to be provided as regards the flexibility needs pursuant to Article 5(10). ”;

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Commission proposal	Drafting Suggestions Comments
virtual hubs pursuant to Article 5(9); and on approving and amending proposals from the ENTSO for electricity and the EU DSO entity related to the methodology concerning the data and analysis to be provided as regards the flexibility needs pursuant to Article 5(10).”;	
(2) in Article 3(2), the following fourth subparagraph is added:	
“This paragraph shall also apply to the single allocation platform established in accordance with Regulation (EU) 2016/1719.”;	
(3) in Article 4, the following paragraph 9 is added:	
“9. Paragraphs 6, 7 and 8 shall also apply to the single allocation platform established in	

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Commission proposal	Drafting Suggestions Comments
accordance with Regulation (EU) 2016/1719.”;	
(4) in Article 5(8), the following second subparagraph is added:”;	
ACER shall monitor the single allocation platform established in accordance with Regulation (EU) 2016/1719.	
(5) In Article 5, the following paragraph 9 is added:	
“9. ACER shall approve and where necessary amend the proposal from the ENTSO for electricity on the establishment of the regional virtual hubs for the forward market pursuant to Article 9(2) of Regulation (EU) 2019/943.”	HU (Drafting): ACER shall approve and where necessary amend the proposal from the ENTSO for electricity on the establishment of the regional virtual hubs if established based on the detailed assesment for the forward market pursuant to Article 9(2) of Regulation (EU) 2019/943.”

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
(6) In Article 5. the following paragraph 10 is added:	
“10. ACER shall approve and where necessary amend the joint proposal from the ENTSO for electricity and the EU DSO entity related to the methodology concerning the data and analysis to be provided as regards the flexibility needs pursuant to Article 19e(5) of Regulation (EU) 2019/943.”	
(7) in Article 15, the following paragraph 5 is added:	
“5. ACER shall issue a report analysing the national assessments of the flexibility needs and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities pursuant to Article 19e(6) of Regulation (EU) 2019/943.”;	

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
Article 5 Entry into force	
This Regulation shall enter into force on the [xxx] day following that of its publication in the Official Journal of the European Union.	LT: (Comments): This Regulation includes changes of two Directives and two Regulations. Maybe it should be separated when shall enter into force Regulations and what is the time-limit for Directives transposition into National Law and date of application.
This Regulation shall be binding in its entirety and directly applicable in all Member States.	
Done at Strasbourg,	
For the European Parliament For the Council	

COMMENTS FROM:

LT BE EE NL PL MT PT IT IE LU CZ DK FR HU ES

Commission proposal	Drafting Suggestions Comments
The PresidentThe President	
	LT: (Drafting): End LT: (Comments): End BE: (Drafting): End BE: (Comments): End EE: (Drafting): End

COMMENTS FROM:

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Commission proposal	Drafting Suggestions Comments
	EE: (Comments): End NL: (Drafting): End NL: (Comments): End PL: (Drafting): End PL: (Comments): End ES:

COMMENTS FROM:

LT BE EE NL PL MT PT IT IE LU CZ DK FR HU ES

Commission proposal	Drafting Suggestions Comments
	(Drafting): End ES: (Comments): End PT: (Drafting): End PT: (Comments): End IT: (Drafting): End IT: (Comments):

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Commission proposal	Drafting Suggestions Comments
	<u>End</u> IE: (Drafting): <u>End</u> IE: (Comments): <u>End</u> LU: (Drafting): <u>End</u> LU: (Comments): <u>End</u> CZ: (Drafting): <u>End</u>

COMMENTS FROM:

LT BE EE NL PL MT PT IT IE LU CZ DK FR HU ES

Commission proposal	Drafting Suggestions Comments
	CZ: (Comments): End DK: (Drafting): End DK: (Comments): End FR: (Drafting): End FR: (Comments): End HU

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LT BE EE NL PL MT PT IT IE LU CZ DK FR HU ES

Commission proposal	Drafting Suggestions Comments
	(Drafting): End HU (Comments): End MT: (Drafting): End MT: (Comments): End