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European Commission initiative: Electricity market – Reform of the EU's electricity market design – feedback EPEX SPOT

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EPEX SPOT position paper on the EMD package – Feedback to Proposals

EPEX SPOT welcomes the fact that the European Union Commission's (EC) proposal of a Regulation of the European Parliament and of the Council 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 ("EMD package") generally builds on the achievements of 25 years of successful electricity market integration, preserving the fundamentals of well-functioning short- and long-term markets, further incentivising the deployment of flexibility and improving consumers' rights and engagement.

Furthermore, Recital 7 of EC's proposal indicates that "short-term markets and the pricing mechanism based on marginal pricing should be preserved, as they function well and provide the right price signals. Short-term (day-ahead and intraday) markets are well-developed, and they result from years of implementation of EU energy legislation". These statements are highly appreciated as they should help to shift the focus to the potential fields for improvement of the overall design.

However, we are concerned that some amendments might seriously alter parts of the existing short-term markets with probable negative consequences on the well-functioning of SDAC and SIDC and could be detrimental to market efficiency and its ability to incentivise decarbonisation at least cost. EPEX SPOT would like to encourage lawmakers to carefully assess these proposals to ensure that the EMD package is not perceived as a drawback to the functioning of short-term markets, the liquidity of long-term markets and the deployment of flexibility assets.

While we understand that European institutions and lawmakers aim at a quick reaction to provide additional security for the next winter and heating season, we also would like to highlight the fact that the proposal includes several components that will have a considerable and long-term effect on European energy markets. We generally advocate to consider descoping such components and to allow for a more refined discussion, analysis and impact assessment whenever possible.

In the following, we assess several crucial proposals and suggest improvements where appropriate.

1. Single legal entity for market coupling

Articles 7 and 59. Since the adoption of the Capacity Calculation and Congestion Management Guideline (CACM GL) in 2015, NEMOs and TSOs have been successfully cooperating to organise market coupling and drive innovation across the Internal Energy Market.

The change proposed by the European Commission (EC) introduces the possibility of having a single entity, designated by TSOs and NEMOs, organising the management of day-ahead (SDAC) and intraday (SIDC) markets. This proposal has been on the table since many years, and it was and still is broadly rejected by the All NEMO Committee, ENTSO-E, industry associations (i.e. EFET, Eurelectric) and consumer associations. This is clearly a move towards a de-facto monopoly of the European Market Coupling in Spot Power Markets, and introduces a disproportionate restriction of the freedom to exercise an economic activity and to decide how to organise it, contrary to Article 5, paragraph 3 and 4 of the Treaty on the European Union ("TEU").

As the legislative process is concerned, we stress the fact that this concept was not discussed as part of the public consultation and, thus, no stakeholders have had the opportunity to provide feedback ahead of the proposal. Neither the Commission proposal nor the accompanying staff working document provide any justification for drastically rearranging the organisation of short-term markets. In addition, no cost-benefit analysis or impact assessment has been conducted to demonstrate the efficiency and added value of a single legal entity. Both of which make it very difficult to provide a proper evaluation at this stage.

Furthermore, we postulate that there is no factual evidence to suggest that a centralised structure would increase the efficiency of EU market coupling or have a positive impact on electricity prices. As the future energy system will be characterised by a high share of decentralised renewable energy, a greater degree of centralisation may hamper the markets' ability to respond to the related challenges. The implementation of a centralised coupling structure would take several years, involve significant cost and complexity, delay important ongoing and future projects, and limit the ability to bring innovative solutions to the market at a crucial phase of the energy transition.

Moreover, the governance of the Single Day-Ahead Coupling (SDAC) and Single Intraday Coupling (SIDC) had not been identified as a shortcoming of the existing market design. On the contrary, Recital 7 indicates that "short-term markets and the pricing mechanism based on marginal pricing should be preserved, as they function well and provide the right price signals. Short-term (day-ahead and intraday) markets are well-developed, and they result from years of implementation of EU energy legislation".

Against this background, we conclude that while the proposed change would entail a profound disruption of the existing market coupling system, directly affecting its governance and operational arrangements, we lack any form of analysis or discussion as well as clear evidence of the potential benefits that might justify the consequent changes, work, costs and risks.

As the contents of the proposed change are concerned, we identify numerous issues with such an entity:

Disturbance of the existing market coupling

- While the basic premise of the Electricity Market Reform is to stabilise a situation that has risen from a crisis, the single entity introduces a potentially very disruptive concept that would directly affect both the operational arrangements of markets in the EU and the governance of these markets, thus bringing more instability into the operation of markets, which could be seen as a contradiction to the proposed goals of the EMR.

Lessons learnt from CACM 2.0 process

- While at first glance, the designation of such an entity might be seen as voluntary, from the perspective of NEMOs, this proposal needs to be read in conjunction with the process that introduced such an entity in the first place (and very recently). This entity was first proposed in ACERs recommendation on reasoned amendments to the CACM in 2021. It is important to note the following:
    - The added value of a single entity has never been demonstrated in the CACM 2.0 process – neither a cost-benefit analysis nor an impact assessment has ever been conducted and therefore the potential benefits of such an entity should be seen as theoretical at best.
    - The ACER proposal was discarded by the entire industry including NEMOs, TSOs and market participants (including generators, traders and suppliers).
    - The current governance structure, which is continuously improved by the TSOs and NEMOs, is the outcome of the cooperation that stems from the existing legislation in the electricity sector, and it delivered both the SDAC and SIDC which now includes all EU Member states.

- Introduction of single legal entity is a time and resource intensive initiative, that would delay other market integration and development projects and would cause delay of execution of regulatory deadlines.

Single point of failure

- The implementation of a single entity would create a loss of time and resources, while creating a centralised market setup, newly introducing a single point of failure for the pan-European power market, thus creating a less secure model than the one currently in place.

Legal concerns

- As a consequence of the abovementioned issues, the proposed amendments to Articles 7 and 59 could be considered in breach of the fundamental principle of proportionality as defined under Article 5(4) of the TEU. As TSOs and NEMOs clearly demonstrated via the delivery of both SIDC and SDAC, they are more than capable of jointly managing the organisation of the market, which is in our opinion the objective of EU law (and EU action should not exceed what is necessary to achieve this objective, which we would like to note, has already been achieved).
- Moreover, we see an area of conflict to move competences and jurisdiction from a national level to an EU one. Such a move needs to be compliant with the principle of subsidiarity, which has not been proved at all.

2. Sharing of order books

Article 7 and recital 14. Today, Single Day-Ahead and Intraday Markets are based on the **clear principle that power exchanges only share order books when cross-border capacity can be expected to be available**. Cross-border capacity represents a natural monopoly; as a consequence, even an intrusive measure like the sharing of liquidity among exchanges, which is unprecedented for such a competitive business setup is justified in this very special circumstances. An extension beyond this scope, however, is not justified and causes several negative economic consequences as well as legal implications. Moreover, a clear boundary is needed to distinguish the highly regulated business of NEMOs to couple(!) European markets and the rather liberal operation of marketplaces and other forms of bilateral and multilateral trading of power.

As far as the **legal implications** are concerned, EPEX SPOT is convinced that the changes go beyond the scope of secondary legislation.

- **Infringement of the principle of subsidiarity**: The subsidiarity principle requires the EU to act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the proposed action, be better achieved at the Union level. The proposal to have coupling/pooling of liquidity locally within a bidding zone has a local impact and not an EU impact, and therefore does not need to be harmonised at EU level.
- **Compliance with the principle of proportionality**: The principle of proportionality states that the measures of the European Union shall not exceed what is necessary to achieve the objectives of the Treaties. It is one of the general principles of EU law recognised by the ECJ case-law. The EU Commission shall better justify how the proposal to pool liquidity locally within a bidding zone is compliant with the principle of proportionality.

- Finally, it **represents an obstacle to develop the respective markets and a disproportionate restriction of freedom to exercise an economic activity under the fundamental freedom to conduct a business** as laid down in the Article 16 of the Charter of the Fundamental Rights of the European Union.

In addition, the mandatory pool for liquidity without clearly defined boundaries has undoubtedly **detrimental economic effects** for the internal market for electricity.

- It discourages innovation and forces competition to revolve exclusively around pricing. Instead of gaining market shares through innovative and tailor-made trading solutions and products, NEMOs will simply try to benefit from competitors' resources, investment efforts and innovation. In such a framework, no NEMO will be willing to innovate or invest in the future.
- It hinders the quick development of solutions to deal with national characteristics and differences. This is particularly needed in developing markets (e.g., flexibility, capacity). Treating them all as shared NEMO activities under CACM will lead to delays, loss of chances and diluted goals.
- It will create discrimination between NEMOs and other trading platforms active in a certain segment without a NEMO license, who will not have to share their liquidity and are rather enabled to protect their innovations and the benefit from them.
- It might ultimately create a single point of failure as a diversity of systems for short-term electricity markets, which can work as potential back-up solutions, is prevented from being developed.

EPEX SPOT is concerned that the unlimited sharing of order books as proposed on the shorth-term physical power markets is a first step to end innovation. While failed innovations would remain at the expense of the first-mover, successful ones would be free-ridden and their benefits socialised. In this framework, NEMOs would no longer show any willingness to innovate. Rather, potential innovators would be discouraged from investing in future developments to the ultimate detriment of electricity consumers. In short: **Instead of innovation and competitive drive, the new regulation would incentivise free-riding**.

This situation becomes particularly worrying if we lack a clear and explicit boundary to distinguish markets that shall be covered by the CACM Guideline and those that remain outside without this level of strict regulation to allow for more risk appetite to identify and try new ideas in evolving markers. Indeed, we need these innovations to establish efficient and effective markets for flexibility, Guaranteed of Origins, capacity, hedging, etc. **We stress this need for clear boundary definitions**, otherwise, this creates a high level of uncertainty whether innovations are reasonable to be pursued. Such a situation, however, would backfire on the European markets for electricity and cause negative consequence for European consumers in the end.

3. Peak shaving products

Article 7a. EPEX SPOT welcomes the Commission's acknowledgment of the positive contribution of flexibility resources (i.e., demand response, storage) to reducing Europe's dependency on gas-based power generation and related gas price volatility. It is of utmost importance that demand response and storage solutions are further complementing the wholesale electricity market. The Clean Energy for All Europeans package adopted in 2019 already set useful rules to develop more flexibility. Still, in many Member States the actual implementation of these rules is lagging behind. National governments should comprehensively apply Article 32 of the Electricity Directive ((EU) 2019/944) which mandates DSOs to consider market-based flexibility procurement. These local flexibility markets should be complementing wholesale electricity markets which, together, can help TSOs and DSOs handle congestion and cover grid investments while improving the profitability of flexibility assets to add an incentive for their development.

However, the suggested peak shaving products, which would be procured by TSOs after SDAC auction but before the start of the balancing market, are not the right approach to foster the development of flexibility assets. We are convinced that the activation of demand reduction by TSOs before the balancing timeframe would distort the intraday market prices, which should rather remain the primary signal for the efficient development of flexibility solutions. The proposed new Article 7a should therefore be entirely removed.

Flexibility assets are well-suited to fully participate in SDAC and SIDC in both peak load and non-peak load situations. Before enabling a new ancillary service, the integration of demand response and storage in the existing short-term markets should be fostered. Nonetheless, if an analysis justifies the need for an additional service to ensure security of supply through demand reduction during peak hours, this should be restricted to the balancing timeframe in order to avoid any negative impacts on the intraday market.

4. Regional virtual trading hubs

Article 9. The proposed mandatory introduction of several regional virtual trading hubs should be entirely removed as it will fragment liquidity rather than help to improve it.

First, it is the market operators' role and natural interest to develop hedging products. The competitive environment in which they engage has led to many innovative cross-border hedging products, including EPAD (Electricity Price Area Differentials) contracts in the Nordics and locational spread contracts on the continent.

Secondly, the proposal to establish regional virtual trading hubs could be severely damaging in markets where well-functioning hedging possibilities are already available. This is the case, for example, in the CORE region where German power futures are combined with spread futures, and in the Nordics where a Nordic System Price (SP) contract is complemented with EPAD contracts (settled according to the difference between the SDAC bidding zone price and the SP). The forced establishment of regional virtual hubs and zone-to-hub LTTRs directly interferes with present solutions, ultimately fragmenting rather than improving liquidity.

Thirdly, in order to be properly hedged, there is no need to ensure full transmission capacity. The EPADs in Nordics and spread futures in the CORE region demonstrate that cross-border forward hedging can be done independent of transmission capacity and not should not be limited to the amount of available transmission capacity. On the contrary, LTTRs issued by JAO and the TSOs are fundamentally linked to physical transmission capacity limits and the expected congestion income of TSOs. Moreover, allocating cross-border capacity sooner than necessary only leads to difficulties in forecasting transmission capacity, and hence, increased financial risk for TSOs, the costs of which will be borne by end-consumers. Furthermore, the existing cross-border hedging products have the additional advantage that any market participant, not only the TSO, can be a counterparty, including market participants active in bidding zones not physically connected to the bidding zone in which they seek a cross-border hedge.

Hence, having TSOs provide cross-border related long-term products always remains a fallback option if market-based solutions are not forthcoming or if those pre-existing are not deemed sufficiently liquid. In that case, the choice of providing LTTRs in the form of financial transmission rights (FTRs) or more directly bidding zone related hedging products (e.g., EPADs) should be free to apply as an additional measure from TSOs, in accordance with point (b) of Article 30(5) of Regulation (EU) 2016/1719 establishing a guideline on Forward Capacity Allocation (hereafter the FCA Regulation).

In addition, we firmly oppose that the proposed decision-making process for establishing virtual trading hubs, and how such prices would be calculated, is fully mandated to ENTSO-E and ACER without explicitly including NEMOs, hedging market operators and market participants. We also strongly disagree with the proposed introduction of an exclusive monopoly role for JAO to offer on behalf of TSOs auction trading in not only pre-existing zone-to-zone LTTRs but also zone-to-hub LTTRs.

Nevertheless, EPEX SPOT recognises that regional price references can be effective in forward markets of Member States or regions with internal zonal configuration. For instance, in the Nordic Countries the usage of a single Nordic System Price – which could be deemed to be similar to a "hub" and where future contracts are combined with EPADs – has been positively assessed. A further example is in Italy, where the existing PUN price has worked well as a virtual trading index. Both these models have been functional as they have been brought forward by market operators according to market needs and physical market fundamentals, without being vertically imposed by regulation.

However, despite the effectiveness of these regional price references, if regional virtual trading hubs were to be introduced, it is of utter importance to avoid that the bidding zones within the same Member States are split into different virtual trading hubs as this would result in market fragmentation, thus jeopardising the overall market functioning.

In addition, this idea was already consulted by ACER last year and only received a 12% approval rating by the respondents. We are concerned that such a model is being proposed after being categorically rejected by direct stakeholders. In addition, the Electricity Regulation is not the proper framework to prescribe zone-to-hub LTTRs, which should be instead assessed in the review of the FCA Regulation involving all stakeholders. Indeed, the FCA Regulation should retain the possibility to implement other long-term cross-zonal hedging products to support the functioning of wholesale electricity markets, such as EPADs which are considered as cross-zonal hedging products as under point (b) of Article 30(5) of the FCA Regulation.

Finally, instead of the establishment of regional virtual trading hubs, we believe that forward market development would significantly benefit from a streamlining of market rules and regulations, particularly financial services regulation. Simplifying these would reduce the barriers to entry for new participants and encourage the development of new products and services. Furthermore, refraining from policies which directly intervene in the market would improve certainty and help to promote forward market liquidity. Enhancing the predictability of market design allows participants to enter more confidently into long-term hedging positions. Allowing for a broader variety of accepted collaterals by clearing houses could also help market players to mitigate their risks via financial instruments. For example, as the value of power or gas supply contracts follows the value changes of open positions, they could serve as good supplement to current solutions. In addition, enabling spread products with mandatory cross-margining between the clearing banks could also increase forward markets liquidity.

5. Power Purchase Agreements

Article 19a and recital 27. EPEX SPOT welcomes the Commission's objective to increase the deployment of Power Purchase Agreements (PPAs) to complement existing hedging solutions. Nevertheless, the proposed amendments can be further improved.

We agree that Member States should facilitate the deployment and market integration of PPAs while safeguarding competitive and liquid electricity markets. Moreover, it is of utmost importance to clearly define the term "guarantee scheme". If not properly designed, such guarantee schemes may interfere with market-based tools to manage counterparty default risk, and, if implemented inconsistently, negatively affect market liquidity.

Guarantee schemes for PPAs should apply to collateral requirements, regardless of whether PPAs are concluded bilaterally or via regulated marketplaces. Finally, the legal text should differentiate between physical and financial PPAs: particularly the latter can be an optional market-based management tool to hedge against price and volume risks in the electricity market for longer time horizons.

In addition, more attention should be paid to the potential pitfalls of PPA. It is important that no incentives are set to preclude large volumes from spot and derivative markets, which could considerably degrade the value of the respective price signals. Moreover, PPAs hold the potential to decrease transparency, facilitate the (ab)use of market power, and impose unfavourable terms for less experience partners including lock-in effects and inadequate risk exposure.

6. Direct price support schemes for new investments in generation

Article 19b. Two-way contracts for difference can be complementary instruments to forward hedging and PPAs as they can respond to a wide range of customer needs and preferences.

Nonetheless, CfDs should not become the primary investment instrument for new low-carbon capacity but act as a targeted supplement to market-based tools. Their design must ensure fair competition, enhance market liquidity and deliver long-term investment signals. In order to minimise their negative impact on spot market pricing and dispatching signals as well as on forward market liquidity, these instruments should be auctioned in an open, competitive and non-discriminatory manner. In addition, they should be designed so that they can keep a direct connection to the spot market which they reference and follow its volatility, thereby ensuring that market participants are not price indifferent.

Finally, Member States should have the possibility to choose the support schemes that suit their needs, CfDs should not be the sole option available.

7. Flexibility support schemes

Article 19e. As with Article 7a, EPEX SPOT supports the increased deployment of flexibility assets, such as demand response and storage, mainly by facilitating the integration of these resources in existing short-term markets, e.g., DA and ID, and by incentivising local flexibility markets.

Regarding capacity remuneration mechanisms (CRMs), in many Member States, the current setup is disruptive to the EU electricity wholesale market. This is because different national CRMs often support fossil-fuel based electricity production rather than incentivise the development of demand response and storage. Also, in many cases, these are not limited to peak power (MW) delivery periods but directly or indirectly give support for longer periods of energy (MWh) deliveries throughout the year. At the same time, CRMs should be permissible only as mechanisms of last resort that are activated exclusively when strictly necessary and eliminated once they are no longer required. Finally, CRMs should be organised as capacity markets in order to tackle adequacy concerns in the most efficient way.

Article 19f. Flexibility support schemes can be a valid alternative but with certain conditions, i.e., as set under points (e), (f), (g) and (h) of this article. Namely, these support schemes must be market-based and technology neutral to avoid distorting the well-functioning of electricity markets in terms of price and dispatching signals.

8. Access to affordable energy during an electricity price crisis

Article 66a. EPEX SPOT is firmly convinced that vulnerable end-consumers should always be protected from excessive price volatility. However, declaring an "electricity price crisis" does not seem to be the most appropriate tool to do so. Such declaration would undermine trust in well-functioning electricity markets, potentially eroding the confidence of market participants and investors, as well as worsening any situation of high price volatility rather than improving it.

The proposed parameters set out in points (a), (b) and (c) of paragraph (1) are inconsistent with the price evolutions of the last few years, during which electricity prices have significantly fluctuated. We find these conditions to be too detailed and too restrictive to fully take into account the circumstances surrounding any potential future price fluctuation. Measuring current prices against historical levels should also consider external factors which influence prices.

As an alternative, it would be preferable for the Commission, ACER and Member States to jointly assess ad-hoc the level of wholesale and retail prices and their impact on the economy overall before declaring a price crisis. In addition, in case an electricity price crisis was declared, this decision should be periodically re-evaluated by the Commission and ACER to ensure the well-functioning of wholesale and retail electricity markets.

Finally, more flexibility should be given to Member States in setting regulated prices for end-consumers, especially in those Member States where smart metering has not been fully implemented yet.

Proposed amendments

1. Article 7: single legal entity for market coupling	"TSOs and NEMOs~~, or an entity designated by them,~~ shall jointly organise the management of the integrated DA and ID in accordance with Regulation (EU) 2015/1222. TSOs 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 DA and ID trading. The obligation to cooperate shall be without prejudice to the application of Union competition law. In their functions relating to electricity trading, TSOs 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."
1. Article 59: single legal entity for market coupling	"(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".
2. Recital 14: sharing of order books	"(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."
2. Article 7: sharing of order books	~~"(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;"~~
3. Article 7a: peak shaving products	~~"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.~~ ~~2. TSOs 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. [...]~~ ~~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. [...]~~ ~~4. Regulatory authorities shall approve the proposal of the TSOs [...] and the baseline methodology [...].~~"
4. Article 9: regional virtual trading hubs	~~"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. [...].~~ ~~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.~~ ~~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.~~ ~~4. The single allocation platform shall: (a) offer trading of long-term transmission rights between each bidding zone and virtual hub; [...].~~ ~~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. [...]~~"
5. Recital 27: power purchase agreement	"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 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. Member States should also be dedicated to avoid potential unfavorable terms in PPAs resulting from unequal distribution of market power, limited transparency and insufficient expertise that can result in lock-in effects, market foreclosure and damage to the liquidity of power markets.“
5. Article 19a: power purchase agreement	“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, and shall cover for the collateral requirements also in case of exchange-based PPAs.”
6. Article 19b: direct price support schemes for new investments in generation	“1. Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 ~~shall~~ could take the form of two-way contract for difference. Other forms of support schemes shall also be available to the Member States. 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. 2. […] 3. Two-way contracts for difference should be designed to prevent undue distortions to the efficient functioning of electricity markets. ~~3.~~4. Direct price support schemes in the form of two-way contracts for difference shall: […]
7. Article 19e: flexibility support schemes	“1. Member States which apply a capacity mechanism in accordance with Article 21 shall ~~consider~~ prioritise the participation of non-fossil flexibility such as fossil free production, ~~and~~ demand side response and storage by introducing additional criteria or features in the design of the capacity mechanism.”
8. Article 66a: access to affordable energy during an electricity price crisis	“1. The Commission, after a prior consultation of the Member States and ACER, may by decision declare a regional or Union-wide electricity price crisis, 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~~; (b) sharp increases in electricity retail prices ~~of at least 70% occur which are expected to continue for at least 6 months~~; and (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. 3. Where the Commission has adopted a decision pursuant to paragraph 1, the Commission, after consulting ACER, shall periodically assess the impact of the decision on the level of wholesale and retail prices and of investments in low-carbon technologies. ~~3.~~4. 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: […] ~~4.~~5. Where the Commission has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision, [...], 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: (a) the price set for households only applies to at most 80% of median household consumption and retains an incentive for demand reduction; […] 6. In Member States where smart metering has not been fully implemented yet, the conditions set out in paragraphs 3a) and 4a) shall be decided by the Member States."

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