

## Policy Note

### Helping vulnerable consumers now, while ensuring investments in the future

Europe is confronted with a massive external energy shock caused by the Russian invasion of Ukraine as well as other global developments such as rising demand for energy commodities (LNG, coal). In the consequence, the supply of energy, particularly for gas, is scarce and prices for energy commodities increased to record levels. For large parts of society, the current energy price level is no longer sustainable.

As EEX Group, we believe that reasonable **intervention is needed to help both households and businesses cope with these unprecedented price levels**. Even though the current price level leads to significant demand reduction and provides incentives to invest in renewables, the transition phase to a new market equilibrium is harsh and could result in long-lasting damage if governments do not step in to cushion some of these side effects.

Looking at possible solutions, **it is key that these interventions do not take away incentives to reduce demand and bring new supply to the market**. A wholesale gas price cap, for example, would entirely decouple the market mechanism from its fundamental, physical basis. It will immediately drive-up consumption and lead to less supply right when we need the most. As a matter of fact, every attempt to artificially reduce or “decouple” prices, does not only hide the actual problem, i.e., a supply crisis, but could even exacerbate it by further reducing available supply.

**We therefore support the European Commission proposal for a Council Regulation on an emergency intervention to address high energy prices as it aims at keeping the current pricing mechanisms intact**. It rightfully looks at reducing demand (by setting mandatory reduction targets), increasing supply (by helping market participants cope with high margin requirements), and financing consumer support by looking at a revenue cap on inframarginal technologies and a temporary solidarity contribution for fossil fuels sector.

**However, the inframarginal revenue cap is highly difficult to implement**. Although it is positive that the intervention is intended to apply to all marketplaces, including transactions on exchanges and bilateral transactions traded over the counter, as well as to all timeframes (futures, day-ahead, intraday and balancing), we see several practical issues.

First and foremost, **wholesale market prices do not reflect the revenues of producing and delivering electricity**. They might significantly deviate from the price charged at the retail level. To consider profits made, one should look at the actual profit and loss statements of market participants, at least at the end of each quarter of a year.

Secondly, **producers typically manage and therefore bid for an entire portfolio of plants and technologies**. They do not bid for one single plant. This renders it difficult to allocate revenues to specific assets and technologies.

Thirdly, as a significant percentage of trading takes place outside of the transparent wholesale market, in the form of bilateral agreements, **it is impossible to collect all the required data and to effectively police the cap.**

Fourthly, **inframarginal technologies and markets are more heterogenous than assumed in the draft Council Regulation.** If the Member States implement a revenue cap, they need to take the differences of the various technologies and timeframes into account. If these differences are not considered, equal caps can dry-out certain markets (e.g., balancing, intraday), which are more costly to operate in. Thus, the uniform and inflexible implementation of a cap on all technologies and timeframes could result in harming security of supply and markets' liquidity.

Finally, **the proposal leaves too much discretion to EU Member States when it comes to implementing the measure.** The result could be a patchwork of different caps across EU countries, potentially overlapping and affecting the EU power market level playing field. Thus, we urge for a higher level of clarification, standardisation and harmonisation at EU-level. Otherwise, the revenue cap will likely distort the EU internal market for electricity.

**To solve all the issues above, consequently, to consider actual profits made, one must look at the revenues as late as possible in the process, not at the settlement of the exchange of the energy.** As stated above, the actual revenues are only determined at the time of electricity production and delivery, including all marketing activities from the futures to the balancing until the retail market. Practically, one must look at the profit and loss statements of market participants to identify the cumulated profits of electricity marketing and production. This must be done at least at the end of each quarter of a year, and on an average basis across the production portfolio that was in scope of the mechanism. Only such an approach can close the potential loopholes.

**We believe a better measure for raising revenues from market participants would be the option for Member States to apply a solidarity contribution to the power sector.**

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