



REMIT Consultation publication inside information – evaluation of responses



1) Introduction

REMIT¹ is a new European Union (EU) Regulation aimed at preventing wholesale market abuse and market manipulation. This regulation came into effect in December 2011 and establishes a new framework for the monitoring of the wholesale energy market. It places an obligation on market participants to publicly disclose, in an effective and timely manner, inside information. Inside information is information of a precise nature which has not been made public, which relates, directly or indirectly, to one or more wholesale energy products and which, if it were made public, would be likely to significantly affect the prices of those wholesale energy products. Such disclosure shall include information relevant to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities.

In the Netherlands, market participants required to publish inside information under REMIT are currently fulfilling this requirement by publishing on their own websites. However, users may potentially be better served by a (national) platform that collects and publishes all information required under REMIT on behalf of market participants. The Authority for Consumers and Markets (ACM) takes into account that such a (national) platform will probably be, at least for power, an intermediate solution. For power, a Central Information Transparency Platform coordinated by ENTSOE is due in 2015. This platform will also publish inside information. For gas there are no concrete plans from ENTSG for setting up such a platform.

ACM has consulted market participants by means of a public consultation in order to determine whether there is a general desire for a central platform where inside information for gas and/or electricity is published.

In this consultation ACM has also invited market participants to provide their thoughts on the need to establish a threshold for the publication of inside information relevant to the gas market.

The public consultation was open between the 10th of July and 30th of August. 17 participants have responded, four of which are associations.

- Anode International Trading SA
- European Energy Exchange AG (EEX)
- RWE/Essent
- Gas Storage Netherlands
- Gasterra B.V.
- BBL Company V.O.F.
- Gate terminal B.V.
- GDF SUEZ Portfolio Management B.V.
- Gasunie Transport Services B.V.
- Innova Energie B.V.
- J. Bakker
- Ondernemersorganisatie LTO Noord Glaskracht (LTO)

¹ Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale market integrity and transparency



- Netherlands Oil and Gas Exploration and Production Association (Nogepa)
- Vattenfall/Nuon
- Tata Steel Europe Limited
- TenneT TSO B.V.
- Vereniging voor Energie, Milieu en Water (VEMW)

The public consultation document consists of 11 questions. The questions and a selection of answers can be found in the annex. For more background on the questions, ACM refers to the public consultation document.



2) Evaluation of the responses on the public consultation

In this section the responses on the public consultation are evaluated. Keep in mind that when counting the respondents in favour or not in favour for a certain issue, the fact that some respondents (associations) represent several parties, has not been taken into account.

Single platform for electricity and gas

A majority of the respondents prefers one platform for the publication of inside information, instead of separate platforms for gas and power. From a data consumer perspective, it might be easier to concentrate all relevant information on a single platform or website and to rely on the same data display and specification methodologies. In addition, gas and power are closely related (e.g. gas fired plants) so it would be logical to have one platform. This issue will also depend on the type of host. If hosted by TSOs for example, there shall be two separate platforms. The exchange or a third party could probably facilitate a common platform.

Willingness to cooperate with a platform

If such a platform would be created almost all respondents are willing to cooperate, but some have indicated that their willingness to cooperate depends on the quality and independence of the platform and the associated costs. The most important requirement is that market participant can count on the inside information being published in a timely and effective manner, so that they are not required to suspend trading². The one respondent that was hesitant to cooperate pointed out the fact that EEX platform, which is open for all market participants, has already been running and it would be inefficient to deliver inside information to yet another platform (if a national platform would be constructed in the Netherlands).

Efficiencies of platform

When asked what efficiencies a platform could offer, respondents mentioned the following points:

- Efficiency. It would make the entire process more efficient, as market parties could consult only one website instead of having to go through all the individual websites.
- Transparency. The same information would be available to all market participants at the same time establishing a level playing field. At one glance market participants can see the disturbances in the market and its causes.
- Monitoring. Facilitate the process of controlling whether certain information has been published or not.

One potential aspect of efficiency is however disputed by respondents. Some respondents will continue to publish on their own website. Their argument is that if there is a technical failure of the platform, according to REMIT, they are not allowed to trade based on the information, which they have sent to the platform as inside information. So as a back-up they would always publish on their own website. Even for respondents that would rely completely on a platform the above issue is mentioned. One respondent mentioned the EEX platform as a reliable and secure platform for the publication of inside information.

² Article 3 of REMIT prohibits trading on inside information. After publishing the information is no longer inside information and the market participant can continue trading.



Regulated or non-regulated platform operator

Concerning the question whether a platform should be hosted by a regulated or non-regulated party, responses varied. There was a small majority for a regulated party. One argument was the confidentiality of the platform. Some stated that a neutral party like a TSO would better guarantee confidentiality, others stated that German TSOs are sometimes also market participants making them less attractive as a platform host. Some parties did not have a clear preference, as long as the platform fulfills requirements like quality, service, confidentiality and low cost.

European platform or intermediate solution

A European instead of a national or regional platform is probably the end goal for the publication of inside information. However it is not clear if such a platform will be established in the coming years. 7 of the respondents were in favour for waiting for a European platform. 6 Respondents would rather have a national platform soon, so they can already benefit from the efficiencies provided by such a platform. A small majority was in favour of a regional platform as intermediate step. Some of those in favour mentioned that EEX already hosts a working regional platform.

Threshold for the publication of inside information

Most participants were in favour of a threshold for the publication of inside information for gas. However, their answers seem to indicate that they think that below the threshold they do not need to publish inside information. This is not true. Above the threshold regulators consider all outages as inside information and market parties can therefore publish automatically. Below the threshold however, they need to assess whether their information could affect wholesale prices. If yes, then they need to publish it as inside information.

Regardless of this misunderstanding there seems to be a genuine need for a clear threshold above which they have to publish and below which they do not have to.

Regarding the value of the threshold, there are several proposals. EEX uses 300 MW (installed thermal capacity) for consumption of natural gas in industrial installations and gas fired power plants. One respondent suggests that a threshold for publication of inside information for gas should preferably not be lower than 5% of daily traded volume, but should never be under 1 %. Another correspondent stated that it is up to market participant to decide whether an outage has impact on wholesale prices and should be considered as inside information.

All respondents state that the threshold should be harmonized with surrounding countries. This harmonization could occur by using the same methodology to establish a threshold or by just using the same threshold in markets which are closely connected.



3) Conclusions and follow-up

Respondents agree that a common platform provides many advantages. Firstly, it would make the entire process more efficient, as market parties would have to consult only one website instead of having to go through all the individual websites. Secondly, the same information would be available to all market participants at the same time creating a level playing field³. At one glance market participants can see the disturbances in the market and its causes. Respondents stated that they will continue to post inside information on their own website as a back-up in case the platform malfunctions. On this aspect no cost savings are expected.

There is however disagreement on how to establish such a platform. The most important issue is whether to wait for a European solution, which is considered the end goal, or to go for a regional or national intermediate solution. Whether the platform is hosted by a regulated party or non-regulated party or whether a single platform for gas and power or separate platforms are used seem less important issues. Several respondents stated that they have no clear preference regarding the first issue. Regarding the second issue ACM will keep in mind the preference of the majority to have one platform for gas and power, but considers that two platforms would already be a big improvement compared to visiting multiple company websites.

ACM sees European platforms as the end goal for reasons stated in the first paragraph. Regarding an intermediate solution ACM considers the following.

- A Central Information Transparency Platform on electricity⁴ is due in 2015. This platform is also expected to publish inside information.
- There are different opinions amongst the respondents about an intermediate solution.

Since there is no clear indication in the responses to the consultation that the Dutch NRA should intervene in this specific field and dedicate much needed resources to enable the creation of a central platform in the short term (which for electricity would only be an intermediate solution anyway), the ACM will not pursue this route. ACM also takes into account the fact that there are opportunities for the market to come up with a solution. Especially for gas this would be valuable, since there are no concrete plans from ENTSOG for setting up a platform.

ACM advises market parties to consult the Third Guidance⁵ on the requirements for publishing information on their website.

Regarding the establishment of a threshold for gas and power, the ACM considers that in the draft Third Guidance, which was drafted during the consultation, does not mention or recommend the establishment of thresholds anymore. Establishing a threshold is too difficult, since it depends on the market and market circumstances whether information on outages has a price influence. It is up to market participants to judge whether information that they hold constitutes inside information and therefore needs to be made public. Taking into account the above, the ACM will not take further action on this subject.

³ This advantage could also be realized without a central platform using RSS feeds on the individual websites.

⁴ Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets. <https://www.entsoe.eu/data/entso-e-transparency-platform/>

⁵ The Guidance assists NRAs in carrying out their tasks under REMIT.



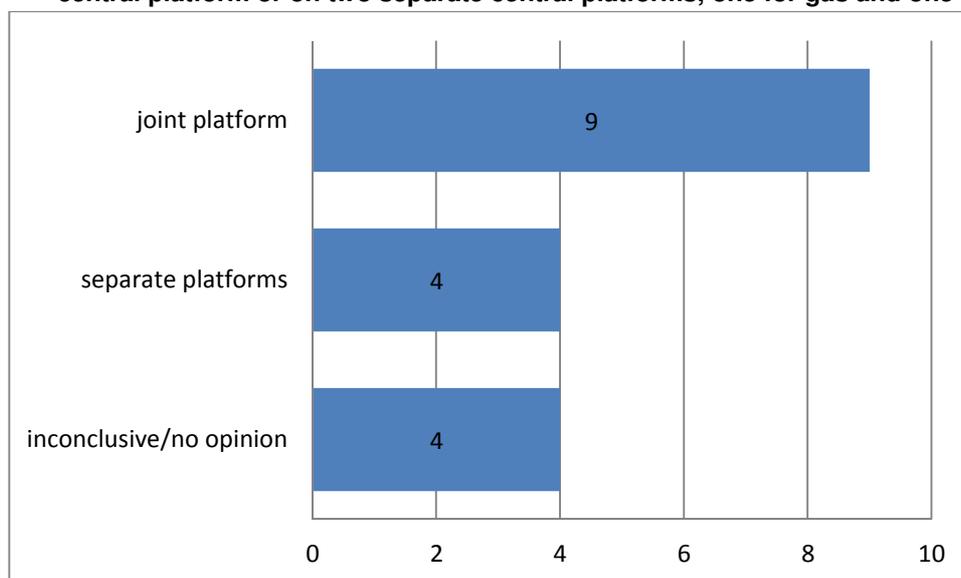
Annex

Results of the public consultation on the publication of inside information under REMIT.

The public consultation was open between the 10th of July and 30th of August. 17 participants have reacted, four of which are associations.

Questions

1) **Would you prefer inside information for gas and electricity to be published on one joint central platform or on two separate central platforms, one for gas and one for electricity?**



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EEX

From a data consumer perspective, it might be easier to concentrate all relevant information on a single platform or website and to rely on the same data display and specification methodologies. However, as the current (interim) practice in the Netherlands (and other countries) relies on individual websites, a small number of platforms or only two – one for electricity and one for natural gas/LNG – would improve transparency and the effectiveness of publication.

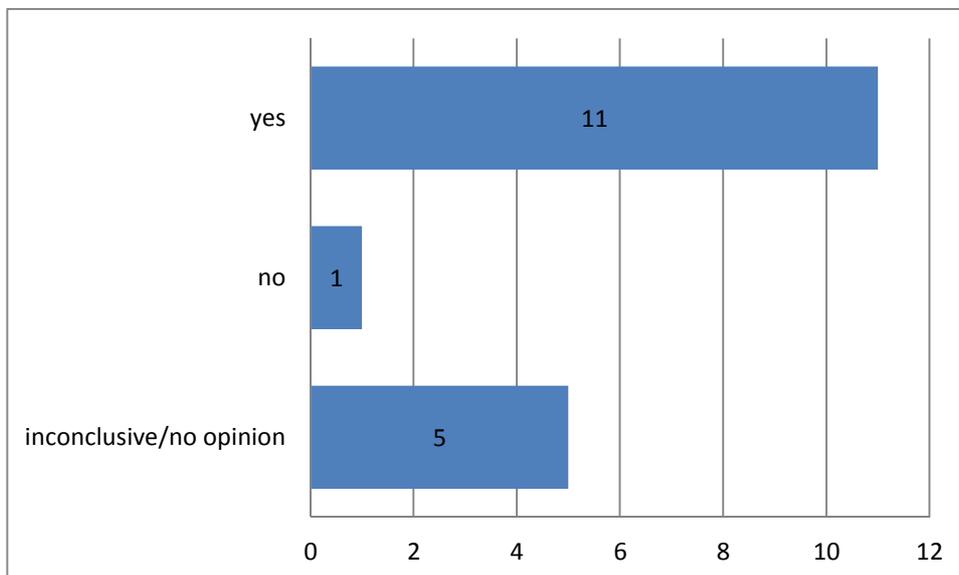
Gasterra

The answer to this question will highly depend on the choice of a particular platform. If hosted by the TSO's for example, there shall be two separate platforms. The exchange or a third party could probably facilitate a common platform

Vattenfall

Because gas and power markets are very much interlinked (e.g. a gas fired power plant is producing on the power market and is a customer on the gas market), Vattenfall understands that a joint platform for gas and power would increase transparency and could lead to cost efficiency than two separate ones.

2) **Assuming a central platform would be established, would you voluntarily cooperate with a central platform for the publication of inside information?**



RWE

A voluntarily cooperation with a central platform in addition to mandatory cooperation with other platforms is not appreciated because it increases costs and efforts to deliver and align data in possibly different formats to different platforms. RWE already cooperates with EEX, which established a common data transparency platform.

GATE

Gate could voluntary cooperate to publish inside information depending on the additional costs.

3) What kind of efficiencies would publication on a central platform provide to you?

Anode

1 equal publication criteria

2 I presume the central platform would provide validated data, which is a huge gain

3 time efficiency in finding the availability information and subsequently assessing it

EEX

This would enable them to rely on a well-proven publication service and to continue trading without interruptions at any time.

Gasterra

The availability of a properly functioning central platform will facilitate the process of controlling whether certain information has been published or not.

BBL

BBLC believes that there would be no efficiencies for infrastructure companies.



LTO

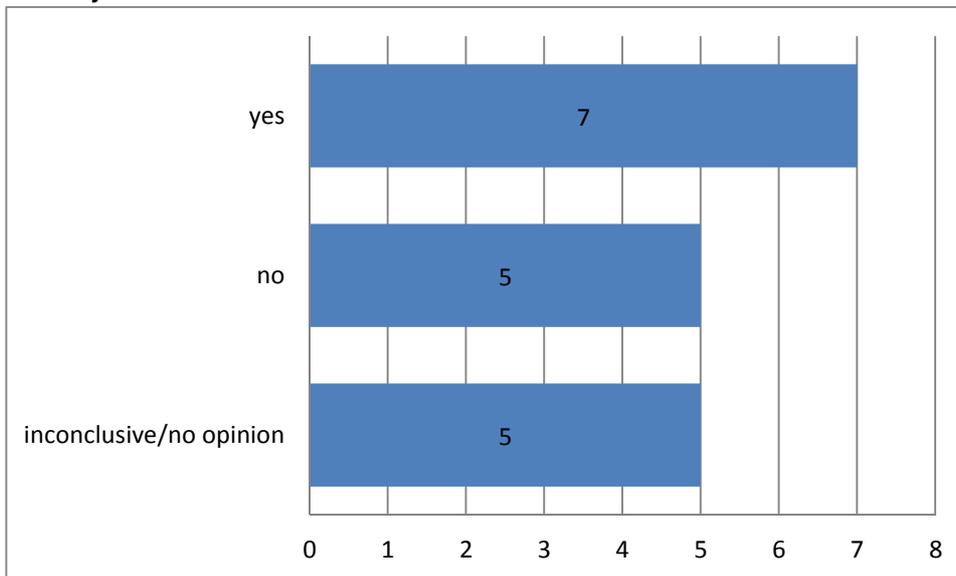
Tot slot zal centrale publicatie een verdere bijdrage leveren aan de marktwerking doordat voor alle betrokkenen sneller zicht ontstaat op (on)geoorloofde gedragingen in de markt.

Translation ACM “Central publication will further increase the functioning of the markets by providing insight in (il)legal market conduct”.

Nogepa

Once the platform is fully functional, NOGEPA members do not consider it necessary to publish inside information on their own websites. Nevertheless, it has to be examined what would happen when the central platform malfunctions. If in such case NOGEPA members would be considered breaching their obligations under REMIT regulation, they would be still obliged to publish the information on their own websites in addition to the central platform. The result of this would be that instead of becoming an advantage, the central platform would become an extra administrative burden on market participants. What further has to be considered is which party would be responsible for the costs of the central platform and which party would be liable in case there is a discrepancy between data in the two systems and the responsible market participant declares that it has supplied the correct information.

- 4) **Given the above statements of ACER, would you consider it necessary to publish inside information on your website in addition to publication via a central platform? And if so, why?**



RWE

Unfortunately the ACER statements do not provide us any comfort. ACER states that “although delayed disclosure of inside information due to technical problems of transparency platforms does not imply a breach of the disclosure obligation, the market participant is not allowed to trade based on that information as long as it is not available to the market.” This implies we would have a trading stop in case of possible severe IT- or data transmission problems of the primary transparency



site/platform which means severe losses. It is therefore of the utmost importance to avoid situations where we are unable to trade and this issue should be solved also related to Q2.

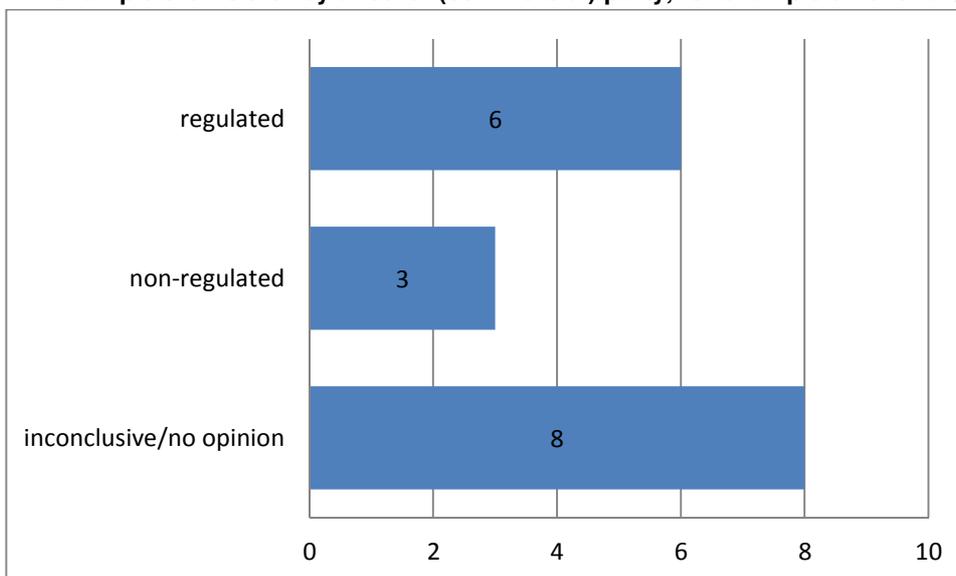
NOGEPA

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Vattenfall

Vattenfall recommends using the existing EEX platform which is decent and reliable and publishes inside information in an effective and timely manner.

5) Would you prefer the central publication website to be hosted by a regulated party, for example the TSO or by another (commercial) party, for example an exchange?



Vattenfall

In principle Vattenfall does not have a strong preference for a TSO, an exchange or another third party. However practically speaking we have a strong preference for the EEX. We have good experience with the EEX in Germany and Nord Pool Spot in the Nordics that are currently publishing inside information. They both operate a decent platform for a reasonable fee. EEX has shown its interest in and capability of including assets from outside Germany, e.g. Austria. TSOs could offer the same service, but the Dutch TSOs have not yet given the right signal to operate a European platform that published inside information in an effective and timely manner.



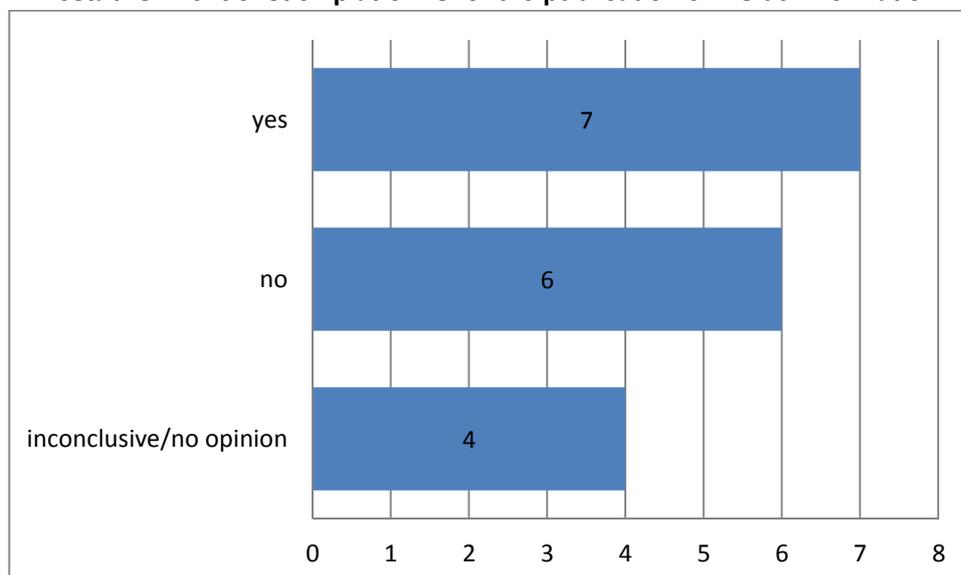
Tata

As the information involved is confidential we prefer a TSO to host the central platform.

RWE

TSOs, e.g. in Germany, are often market participants as well. Therefore the data couldn't be sent to another market participants for publishing. The best choice is a third party (like e.g. the already established EEX transparency platform) that is able not only to publish the data in a timely manner, but also ensures data quality, high performance and availability of the website, and probably services to provide data in specific formats to other data platforms.

6) Given the uncertain prospect of European platforms, would you prefer to wait for the establishment of such platforms for the publication of inside information?



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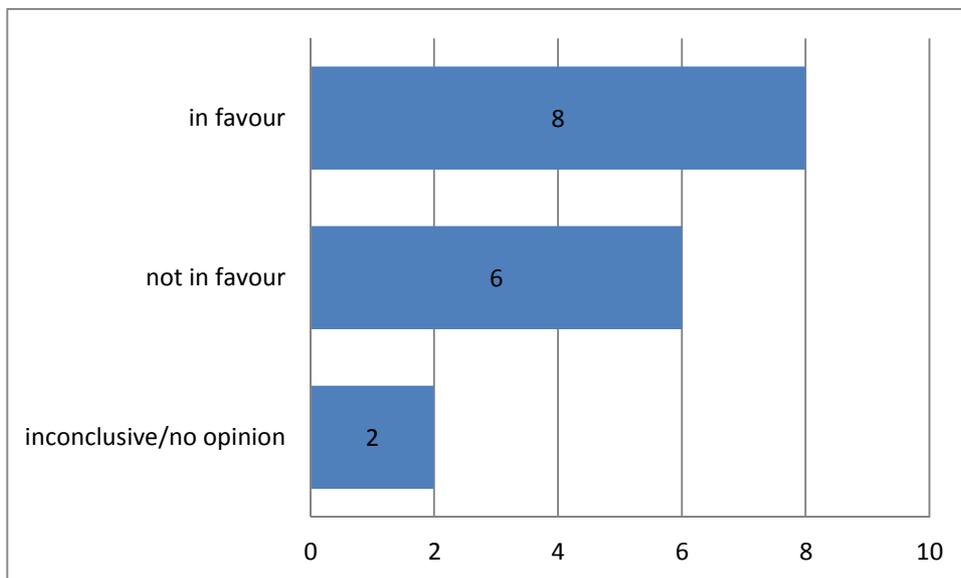
Gasterra

Although an European platform would be the most desirable solution, it might be quite challenging and time-consuming to put such a platform in place. Therefore GasTerra would support the more practical approach of first setting up a platform on a national level.

VEMW

Yes, we would prefer to wait for more clearness about European platforms before developing a national or regional platform.

7) What do you think of a regional platform with inside information from one or more neighboring countries?



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VEMW

If there is no European wide platform a regional platform could be an interesting alternative. Due to a growing influence of renewable energy in several countries, and the transport of gas through different countries, we think regional information is of vital importance to the functioning of the market.

Vattenfall

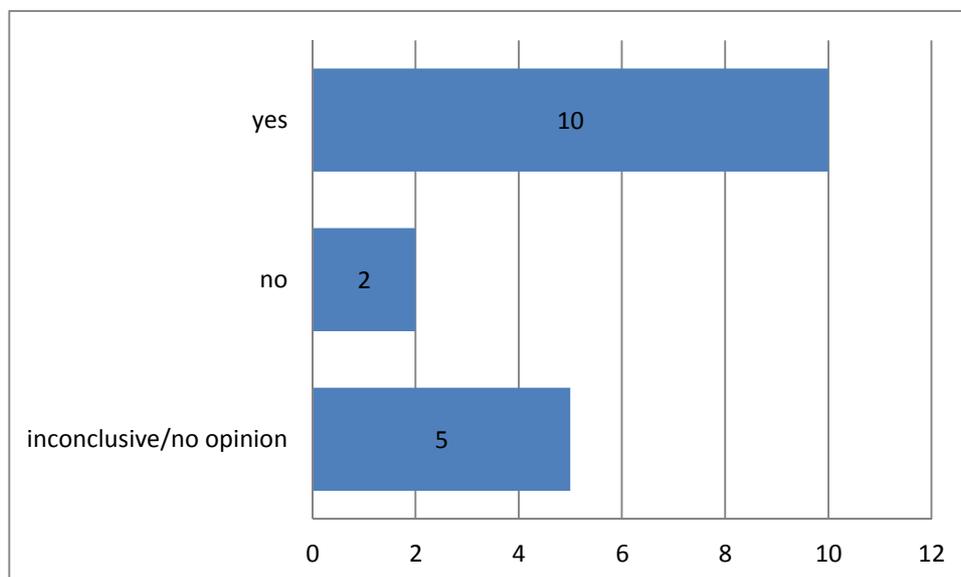
We prefer an EU-wide platform or a platform which is certified EU-wide. Since platforms in general enhance the level of transparency significantly, we believe that a regional platform such as EEX would be sufficient.

GTS

Dit zou een optie kunnen zijn, toch geeft GTS de voorkeur aan een Europese oplossing. Een regionaal platform is net zoals een nationaal platform een tijdelijke oplossing.

Translation ACM "This could be an option, although GTS prefers a European solution. A regional platform could be, just like a national platform, a temporarily solution."

8) Would a threshold for gas – above which inside information must be published – be of added value to you?



Gasterra

Yes, a threshold for gas, above which inside information must be published, will certainly be of added value. Having such a threshold will limit the information which is being published and will thus make the reference to the really relevant information easier. Another important advantage of determining such a threshold is the clarity it creates. It is mostly operational departments which receive certain information. These departments must have clear instructions for evaluating the information. A volume threshold is an essential element of these instructions. Determining a common threshold for all market participant will be beneficial for the streamlining of the processes and the effectiveness of the publication obligation.

VEMW

Yes, for those Members of VEMW who are market participants this is very important. Up until now it is not clear what information has to be published. A threshold must be set by the regulator as soon as possible.

9) In your opinion, what considerations should play a role in determining whether to use a threshold for publication of inside information for gas?

Anode

The relation between the size of the treshold, the turnover and liquidity of the relevant market and of the size of national consumption. From this data one can derive the market influence of a trade of a specific size. The threshold should be any quantity that has a market influencing effect.

Vattenfall

The threshold should be consistent with neighboring countries and it should be set at a level that ensure that outages in gas assets (pipelines, production fields and storages) which can have a significant impact on the prices are published in a timely and effective way. In this context we think that a threshold of 500 MW would be reasonable and effective. This is also consistent with threshold in Denmark.



10) In your opinion should this threshold be in line with neighboring countries, if so which countries?

RWE

Yes, a common threshold secures optimized information flows for the market without the need for further data processing. As an international active company RWE would appreciate to provide the relevant data in a unified way in order to simplify the IT efforts respectively lower costs. Best case would be a harmonization all over Europe, but at least harmonized data for Central Europe (D, A, CH, NL, BE, Lux) would be helpful.

Nogepa

According to members of NOGEPA the market size, market liquidity and the level of connectivity between markets should be considered while deciding on the threshold. It was mentioned that aligning with the United Kingdom would make more sense for the Dutch market than aligning with e.g. the Denmark threshold.

VEMW

The methodology to determine the threshold should be based on the same principles in all countries. Depending on the traded volume, the threshold will be different in neighboring countries as long the market is not fully integrated.

11) In your opinion what would be the right level for a threshold?

EEX

EEX has consulted closely with market participants from Austria, the Czech Republic, Germany and Switzerland on this issue. As a result, a minimum threshold of 300 MW (installed thermal capacity) for consumption of natural gas in industrial installations and gas fired power plants has been agreed upon. Reporting for gas storage is possible without any minimum threshold.

VEMW

A threshold for publication of inside information for gas should preferably not be lower than 5% of daily traded volume, but should never be under 1 %. For the Netherlands this would be at least 2 mln m³/day (35,17 MJ/m³) or larger than 800 MW/day.

GTS

GTS is van mening dat de 'juiste' drempelwaarde niet bestaat. Marktdeelnemers dienen een Urgent Market Message te publiceren wanneer deze invloed heeft op de groothandelsprijs. Zo gaat GTS over tot de publicatie van een Urgent Market Message wanneer GTS richting een shipper moet melden dat GTS niet meer aan de nominatieverplichting kan voldoen. Van belang hierbij is dat de markt en de shipper gelijktijdig geïnformeerd worden. De inschatting of de uitval van invloed is op de groothandelsprijs wordt overgelaten aan de markt zelf.

Translation ACM "GTS is of the opinion that a right threshold does not exist. Market participant should publish Urgent Market Messages when these have impact on the wholesale market price. GTS publishes an UMM when GTS cannot comply to a nomination of a shipper. It is important in this aspect that the market and the shipper are simultaneously informed. Whether this outage has an influence of the wholesale market price is for the market to decide".