

CEER Public Consultation on Dynamic Regulation to Enable Digitalisation of the Energy System



EFET response – 14 May 2019

The European Federation of Energy Traders (EFET) welcomes the opportunity to provide its views to the CEER consultation paper on Dynamic Regulation to Enable Digitalisation of the Energy System. Discussing the implications of digitalisation for the energy sector gives important insights into the changes to come.

1. What impact do you consider that digitalisation will have on the energy system and which are the most important?

[Relevant for chapter 2 of the CEER Consultation Paper.]

Digitalisation has already had a huge impact on the energy system and new projects and developments are being progressed on an ever-increasing speed. On the grid and system side, digitalisation in the last century led to the establishment of Energy Management and SCADA Systems allowing for the centralised operation and control of transmission systems.

This was followed by the automation of substations in the transmission grid and this trend is still ongoing at the lower voltage levels / distribution grids. Likewise, digitalisation at the side of generators allowed for automation at power stations and centralised operation and control of power plants and other assets. Currently, large amounts of smaller-scale (decentralised) generation assets, including wind and solar plants, are centrally controlled in so-called virtual power plants.

On the trading side, digitalisation has allowed for concluding and managing energy trading with a large amount of business transactions and the recent introduction of algorithmic trading. The common denominator in these developments is that each actor (e.g. DSO/TSO, generator, trader, supplier, exchange, even consumers) aims to increase the efficiency of its business and thus contributing to the efficiency of the overall energy system.

This trend is clearly ongoing and will certainly result in further benefits. Arguably most changes in the next years are expected to take place in the retail supply business supported by the roll-out of smart meters. This will allow suppliers to offer new types of contracts and arrangements with time-of-use and dynamic pricing. These developments

are further fuelled by electrification and installation of smart appliances. It can be expected that new and existing market participants will offer new services to retail consumers. It must be noted that retail consumers, within the limits of technology, have been active consumers. The response of consumers to traditional two-rate tariffs (peak/off-peak tariffs) has always been substantial. In recent years, the relevance of such behaviour has strongly reduced because of the shrinking spread in peak/off-peak prices. However, technological limitations are disappearing, and the volatility of power prices is likely to increase with the further deployment of variable energy sources.

At the same time the role of the different entities, in particular TSOs/DSOs, grid connected entities and other market participants (like traders, brokers, aggregators, suppliers, off-takers, platform providers, etc.) is not changing. TSOs/DSOs have the legal duty to provide proper grid services and remain regulated. Grid connected entities have the right to enter the market and have the duty to carry balance responsibility. And all other market participants fully act in the contestable market domain. As could be seen from the examples presented and since digitalisation is not changing the roles and responsibilities of all entities involved in the market, digitalisation as such does not trigger the need for dynamic regulation.

The example above shows that the market participants reacted early to adopt new technologies, due to healthy competition. Digitalization will change the energy system in ways we cannot foresee now. Guessing the right way forward and regulating it is not the correct answer in our opinion. The regulator should act like an arbitrator and not like a player.

2. What are your views on the changes for the energy system highlighted in chapter 2 of the consultation paper:

- a. Increases the productivity of the existing system;**
- b. Enables new products and services that alter electricity demand; and**
- c. Brings new digital marketplaces that transform the way the sector transacts?**

And are these the most relevant?

[Relevant for chapter 2 of the CEER Consultation Paper.]

For a: yes; and b: yes, and see our comments to previous question.

For c:

In essence the energy market is decentralised. Each entity with a connection to the grid is a market participant. This means, on one hand, that it has the right to conclude transactions with any other market participant or combination of market participants and, on the other hand, has the obligation to carry balance responsibility. The requirement to carry balance responsibility can obviously be outsourced; this being especially relevant for retail consumers, but also to many generators which are outsourcing this responsibility.

Wholesale power transactions between these market participants take place in many different ways ranging from bilateral agreements to more centralised, digitalised platforms. New platforms, including so-called peer-to-peer platforms, are being developed and implemented regularly, some successfully, others not. Platform providers are in competition and are not and should not be regulated. However, the emergence of

such new platforms will not trigger a transformation of the way transactions are being handled. Bottom line is that the TSO requires a schedule and a metered value for each connection point for each 15 minutes and the difference will be settled against the imbalance price. This principle also applies to peer-to-peer platforms for retail consumers and prosumers.

As mentioned in the previous commentary, digitalization has already made an impact in the wholesale trading in the European energy sector. IT & Electronic Data Exchange standards introduced by EFET and automated handling of transaction data in the back office of traders are effects of digitalization that contributed significantly to easing, reducing costs and accelerating the trade process, further on increasing the liquidity of the market and competition.

We expect these effects to continue, expanding to the front office (robot trading).

Discussing specifically on new products and services that alter electricity demand, digital marketplaces already exist. A combination of broker platforms, energy exchanges and transmission rights/ capacity auctions offices already provide digital marketplaces; in some cases, they have existed for nearly twenty years.

For example, the Trayport trading screen, found almost on every trading floor, digitally connects traders, brokers and utilities to the energy market's electronic trading and clearing systems. The technology at its base, GlobalVision, was created back in 1993 at the request of an energy broker that wanted better interconnectivity for its users. In 2009, the company opened its link for automated clearing. By 2019, it became a major electronic trading networks and software company, with offices in London, New York and Hong Kong.

The CEER consultation paper presents a good analysis from the consumer side, but has some misguided assumptions on the impact of better coordination of network systems. This impact is overestimated, while the digital advancements in back offices, together with the importance of liquidity in wholesale markets, is underestimated.

Simply enabling consumers by digital means will not necessarily change patterns of consumption or bring about a willingness to reduce or shift demand at particular times. Consumers cannot be easily forced to change their behaviour and the availability of a new technology may not provide enough inducement to do so. More likely to prove persuasive would be their exposure to variable, even highly volatile, prices.

To conclude, digitalization brought important changes, but they are much more mundane and quotidian than the more theoretical and garish changes mentioned in the consultation paper.

3. In your view, what are the most important value propositions for consumers, which should be prioritised?

[Relevant for chapter 2 of the CEER Consultation Paper.]

Consumers, including retail consumers and prosumers, are already active in the market. As explained before, digitalisation including the roll-out of the smart meter will allow for new type of arrangements and contracts. It is impossible to assess, and regulation shouldn't try to anticipate what the most important value propositions for consumers will be. These could be dynamic price contracts based on day-ahead prices, but it could be contracts with different prices for hours with low-wind and low-PV generation. In both

cases consumers may enter into an agreement with the supplier or a 3rd party to control some of its appliances (like charging of its car- or home-battery). In essence, the market will decide, and regulators should not set priorities. Regulators should ensure that the fundamentals are properly arranged, and this includes the right for a consumer to enter into any commercial contract with any market party or combination of market parties. However, regulators should refrain from regulating the market. Therefore, the call to regulate the role of so-called independent aggregators is unnecessary and should be avoided.

We fully agree and support that consumers can and should be in the contestable market domain. They could be valuable market participants.

Within the ongoing decentralisation and digitalization trend, where an increasing number of activities will take place at the distribution level, competition must also play the predominant role. Market participants, including prosumers, are best placed to provide cost-efficient solutions.

4. In your view, will digitalisation lead to more consumer participation in energy markets? Please provide your reasoning.

[Relevant for chapter 2 of the CEER Consultation Paper.]

Yes, as we argued in the previous comments. Although it must be noted that increased consumer participation also requires a business case that is based on changing market fundamentals. Currently, power prices in many EU countries are still rather low and not very volatile because of overcapacity. This also means that flexible capacity currently has limited value. These fundamentals are likely to change in the future because of increased demand (electrification), increasing share of variable resources and decommissioning of thermal generation.

We consider that there will be more participation in energy markets, but not from the actors nor the reasons considered in the CEER Consultation Paper.

The EFET Standards for electronic exchange of information drove down the complexity, the costs and overall, made trading easier. In effect, it lowered market barriers, which allowed more newcomers and increased the liquidity of the wholesale market in the energy sector. It was not the only factor, but it was a significant one, seemingly overlooked by the CEER Consultation Paper. Consequently, participation in energy markets increased and will likely increase even further, due to ease of transaction.

CEER Consultation Paper alludes to the fact that digitalisation will bring with it the emergence of “decentralised” energy trading. There seems to be some misunderstanding of how trading in a “centralised” manner works and its merits. A “decentralised” energy trading does little to enable sales and purchases through meaningful price formation and price visibility on a “local” platform.

Competition between trading platforms is certainly a principle that we promote strongly, but “decentralised” energy trading cannot be an objective *per se*, as it provides few merits for market liquidity, bids depth and price formation.

5. What are the key enablers needed to unlock the benefits of digitalisation for consumers?

[Relevant for chapter 3 of the CEER Consultation Paper.]

The key enablers are: roll-out of the smart meter, retail competition and a positive business case based on a level playing field and regulatory certainty.

The crucial requirement is that retail consumers (like any other grid connected entity) should have the right to enter the market and conclude contracts with any other market participant or combination of market participants, while paying their fair share and having responsibilities towards the system. This goes beyond the right of a consumer to switch between suppliers. It should have the right to enter into agreements with a combination of suppliers, aggregators or other service providers. However, the contractual and commercial terms of these agreements should not become regulated.

The Consultation Paper introduces the concept of “*regulation of intermediaries*” that would include “*responsibility for balancing and, where applicable, capacity requirements where they are selling energy.*” Regulation of the intermediaries is however unnecessary, is likely to distort and/or hamper the market and, should be strictly avoided. An intermediate in itself carries no balancing responsibility, it may have taken over the balancing responsibility of its customers. However, that responsibility is governed by the contract between this intermediate and its customer. A grid connecting entity may have contracted multiple intermediaries and may thus also have chosen for different arrangements to outsource its balancing responsibility to one or more of these intermediaries.

Furthermore, the Consultation Paper alludes to the fact that issuing a regulatory mandate, namely suppliers offering consumers the choice of a dynamic price, will be sufficient to make consumers more price responsive. In the same vein, it argues that the arrival of aggregators will give a boost to demand reduction response. For example, the statement “*Peer-2-Community platforms provide for a Community to balance the supply and demand of electricity for a group of consumers/ prosumers.[...] Once the Community has optimised its collective position, it may then trade with the wholesale, balancing or ancillary markets in order to buy additional or sell excess electricity.*” ignores the fact that weather conditions (wind, sun) affect the renewable energy generating assets of the entire community. Furthermore, economies of scale are overlooked.

While valid points for enabling digitalization for consumers, they are far from sufficient.

Much more important, *sine qua non*, is the imperative of free formation of wholesale prices, the necessary toleration of price volatility, a tolerance of scarcity and the abolition of price caps and price controls. None of these points is mentioned in the CEER Consultation Paper as crucial prerequisites for both the effectiveness of dynamic retail pricing and the attractiveness of reducing demand in peak hours.

6. What are the main risks for consumers arising from digitalisation of the energy sector?

[Relevant for chapter 3 of the CEER Consultation Paper.]

The main risk is that many different and complex value propositions for retail consumers might be made. It will be extremely difficult to compare different offers and choose

between them. In that case, regulators can play a role in protecting (vulnerable) consumers by providing insights and warnings, if necessary.

DSOs and TSOs are - by providing access to their networks - market facilitators. Commercial activities like power generation, demand-side response and storage lie within the contestable domain of the market.

Strict separation of competitive commercial activities from monopolistic system operation activities at a distribution level is needed. Otherwise, there is the risk for consumers to lose the incentives to be involved in the market. For liquid markets to evolve and function effectively, it is crucial that new market entry is made possible and that there are a sufficient number of participants able to compete with each other.

This can only be achieved through providing retail and wholesale market entrants with solid guarantees that they will have unimpeded access to the grid and to customers on a non-discriminatory basis. The independence of transmission system operators ranks high among the guarantees required from a new market participant's perspective.

We do not agree with phrases such as "*The established model of sales of energy as a commodity (kWh) is not necessarily the best model for the future*"; we consider that the market is in the best position to answer this question and regulators are overstepping their role commenting on market models of sales of energy.

7. What would a “whole energy system” approach look like – would this unlock more benefits of the digitalisation of the energy system?

[Relevant for chapter 3 of the CEER Consultation Paper.]

A “whole system approach” is and should remain based, on the existing design principles. These principles are:

- a strict unbundling between TSOs/DSOs and market participants;
- rights (enter the market) and duties (balance responsibility) for all grid connected entities;
- freedom of contractual relations between market participants.

Special attention is needed for the role of the grid and congestion management. In essence, the grid is facilitating the market. TSOs and DSOs provide grid services to grid connected entities and thus they allow these entities to value its flexible capacity on the market. Obviously, the TSOs and DSOs are responsible for a secure grid and congestions may occur in the grid. In such a case they may procure redispatch or congestion management services from grid connected entities or, if need may be, they may intervene in the dispatch to avoid a black-out.

In many recent publications it is suggested that local flexibility markets can be created where grid connected entities can seek to optimise the value of their flexible capacity by either offering it at the market or as a service to the TSO/DSO. In these concepts, market-based congestion management could be understood as being in competition with the market.

However, such understanding would be flawed. Priority must be given to the market and the grid must be treated as a facilitator of the market. The provision of congestion management services, either as the result of a market-based procurement or of a

mandatory intervention, should always be compensated and the overriding principle for such compensation is that the affected grid connected entity should be left financially indifferent (which means no advantage nor disadvantage compared to other grid connected entities that are not affected by congestions).

A “whole system approach” where DSOs “use flexibility services to solve local constraints in their networks and defer reinforcements in the grid” requiring them to be “able to uncover offers from flexibility providers and such providers to have a clear enough signal to invest” is not a realistic objective.

Wholesale trading at notional hubs on the high voltage system would have serious difficulties, even with significant advances in digitalization and computing, to be transferred onto distribution grids. To recall, currently hardly any DSOs are sophisticated enough to conduct congestion management and localised system balancing, let alone operate a system of micro-scheduling.

8. Do you agree with the analysis presented here on the key areas in which energy regulators should focus?

[Relevant for chapter 3 of the CEER Consultation Paper.]

The analysis presented in the CEER Consultation Paper is too regulatory-heavy. CEER analysis overestimates the impact of a regulatory mandate for more consumer participation in energy markets, even with the help of digitalization. The assumption that aggregators, “multi-level trading” and “decentralized markets” would somehow make consumers more price responsive and boost demand reduction response is misguided.

9.1 Which of the specific draft regulatory proposals should regulators pursue? Which should they not undertake? In both cases, please explain the reasoning for your answer.

	Regulators should pursue	Regulators should NOT pursue
1. DSOs to focus on the quality of their network data and data on distributed energy resources connected to their networks within the relevant legal framework, to ensure they utilise data effectively where this will improve efficiency of their planning, operations and investment, and where necessary improve the accuracy of their records. It is important that network data collated is interoperable and the best institutional arrangements are determined for holding the data. Learn from those who move first in this area, for example through developing digital twins.	<input checked="" type="radio"/> Regulators should pursue	<input type="radio"/> Regulators should NOT pursue
2. Where new entrants (whether distributed resources or new retail business models) are at a competitive disadvantage through lack of access to	<input type="radio"/> Regulators should pursue	<input checked="" type="radio"/> Regulators should NOT pursue

	Regulators should pursue	Regulators should NOT pursue
industry data, consider how to level the playing field. For example, if it is difficult for storage to know where best to connect, or the extent to which revenues may be available in future from providing constraint management solutions, so DSOs should consider providing interactive maps and/or network data and models, without endangering security and avoiding any misuse potential. If it is difficult for new entrants to develop products due to lacking consumer data that incumbents already have for their customers, consider provision of aggregated or anonymised data, ensuring compliance with the GDPR and protection of commercially data of third parties.		
3. For data privacy and competition issues, energy regulators should work with the authorities responsible for data protection and competition to ensure mutual understanding of the issues in the energy sector and to ensure energy companies adopt best practice.	<input checked="" type="radio"/> Regulators should pursue	<input type="radio"/> Regulators should NOT pursue
4. For cybersecurity, as a minimum, take forward the recommendations in the recent CEER report, including that: <ul style="list-style-type: none"> • Even non-Operator of Essential Services (OES) actors should apply cybersecurity standards as close as possible to those of OES. • NRAs should encourage meeting compliance with the Directive on Security of Network and Information Systems and provide support in transposing horizontal regulation into sector-specific best practices. • NRAs need to be prepared to monitor and evaluate cybersecurity expenditure, particularly of regulated entities. • Management in energy-sector entities, including NRAs, should provide clear guidance on cybersecurity governance, including, the proper place and role for the chief information security officer (CISO). • TSOs/DSOs/Suppliers should have a cybersecurity strategy and they should set clear and effective cybersecurity measures prior embracing new technologies such as Cloud computing or systems for the handling of Big Data. • CEER and ACER may promote cultural change through activities such as partnerships and awareness campaigns. 	<input type="radio"/> Regulators should pursue	<input checked="" type="radio"/> Regulators should NOT pursue
5. NRAs to monitor experience with new products and consider whether additional steps to empower or protect consumers are needed, and energy regulators to cooperate with other regulators through PEER to promote effective consumer protection. CEER to publish a summary of experience across Europe once there is sufficient experience to learn from, considering also lessons from telecoms and financial	<input type="radio"/> Regulators should pursue	<input checked="" type="radio"/> Regulators should NOT pursue

	Regulators should pursue	Regulators should NOT pursue
services markets where relevant. Particular attention is merited on distributional issues – whether some parts of society are being “left behind” by developments.		
6. Regulators to consider best model for regulation of intermediaries including responsibility for balancing and, where applicable, capacity requirements where they are selling energy. Where not already in place, consider arrangements for a default supplier for inactive customers.	<input type="radio"/> Regulators should pursue	<input checked="" type="radio"/> Regulators should NOT pursue
7. As part of their regular processes, NRAs to review network tariffs to ensure they are fit for the future. Active customers who utilise new technology must receive cost-reflective signals reflecting the costs and benefits they bring to the network. All consumers, including those who are unable or choose not to engage, should pay a fair contribution towards the fixed costs of the system.	<input checked="" type="radio"/> Regulators should pursue	<input type="radio"/> Regulators should NOT pursue
8. Regulators to monitor development of platforms and new marketplaces and seek to establish adequate oversight and feedback from stakeholders. Where barriers are identified, regulators to promote a level playing field for alternative technologies.	<input checked="" type="radio"/> Regulators should pursue	<input type="radio"/> Regulators should NOT pursue
9. As part of their regular processes, NRAs to review network tariff regulation to remove capex bias and encourage the use of flexibility services where economic. CEER to monitor progress in implementing the recommendations of the Conclusions paper and collate best practices.	<input checked="" type="radio"/> Regulators should pursue	<input type="radio"/> Regulators should NOT pursue
10. DSOs to explore market-based procurement for flexibility services, considering use of a flexibility marketplace where efficient and reviewing whether network tariffs send the right signals for network users.	<input checked="" type="radio"/> Regulators should pursue	<input type="radio"/> Regulators should NOT pursue
11. DSOs and TSOs to review product definitions for grid services which make most efficient use of the services that distributed resources are able to provide without unnecessary restrictions (such as high minimum size requirements), as far as practical consistent across markets.	<input checked="" type="radio"/> Regulators should pursue	<input type="radio"/> Regulators should NOT pursue

	Regulators should pursue	Regulators should NOT pursue
12. Regulators to review progress on TSO/DSO relationship in a more decentralised system and where necessary engage more closely in discussions to define respective responsibilities.	<input checked="" type="radio"/> Regulators should pursue	<input type="radio"/> Regulators should NOT pursue
13. NRAs to strengthen their expertise, skills and capability in the digital realm.	<input checked="" type="radio"/> Regulators should pursue	<input type="radio"/> Regulators should NOT pursue
14. Regulators develop best practice approaches to enable trials of new products and business models ("sandboxes"). CEER to provide a forum for exchange of learning from both EU-funded and national trials and studies and to feed back into the parameters for new trials.	<input type="radio"/> Regulators should pursue	<input checked="" type="radio"/> Regulators should NOT pursue

Please explain your choices to the above question in the comment box below.

For option 1 and 8, improved transparency remains essential across the energy markets, particularly the provision of information from infrastructure operators and the accountability and clarity of regulatory decision-making. TSO/DSO should make available as much data as possible in order to allow new entrants to make well-informed decisions as well as to allow established market participants to support the grid effectively.

For section 2, it is logical that large and established players may have more data (like consumer data). However, that does not mean that the level playing field is distorted and that regulators should act.

For option 3, a clear, commonly agreed vocabulary is an objective that we support. However, only focusing on energy companies falls short of the reality that digitalisation will lead to new entrants coming from other sectors (for example automobile or technology sector) that all need to be covered by the same rulebook in order to ensure the level playing field for all participants.

For option 4, some points presented are good; but we consider that cybersecurity is already treated by other legislation, *i.e.* REMIT. The points presented give a too heavy regulatory burden to traders.

For option 5 and 6, we consider than NRAs would overstep their role with such measures. The market should be left to its own devices.

For option 7, we are in favour, regulators should pursue this; all consumers must pay a fair contribution towards the system.

For option 9, we consider that regulators should pursue. Removing capex bias eliminate some wrong incentives towards TSOs/DOSs and would be more efficient for society.

For option 10, we agree that DSOs could explore market-based procurement for flexibility services; but without interfering with wholesale markets and provided that unbundling principles are maintained.

For option 11, we agree that regulators could pursue, as it is linked with the previous question.

For option 12: effective cooperation between TSOs and DSOs is crucial. From the perspective of the market, there is no difference between the transmission and the distribution grid. Effective cooperation is key to ensure a level playing field between all market participants irrespective of their location in the grid. Unfortunately, there is still quite some mistrust between TSOs and DSOs. TSOs sometimes blame DSOs that by proposing local markets DSOs would undermine the wholesale market and TSOs are concerned about that lack of full unbundling at DSO level. DSOs, on the other hand, face an increasing amount of generation connected at their grids and are concerned that TSOs, for system balancing purposes, would control such decentralised assets in an uncoordinated way and by doing so could cause congestions in the distribution grid.

For option 13, strengthening the NRAs' expertise, skills and capability in the digital realm, particularly cybersecurity is a good policy option.

For option 14, we disagree with the idea. There is no need for regulators to develop sandboxes. Regulators should monitor developments, especially from the perspective of consumer protection, but should not go further

DSOs/ TSOs could test whether market participants are interested to develop a new asset, like storage, in a certain grid area. If the business case is positive, the DSOs/ TSOs may go ahead. However, if the business case is negative, the DSOs/ TSOs may NOT be allowed to develop the asset, even if the DSO/TSO can show that the cost benefit analysis for such investment is positive.

Alternatively, the TSOs/DSOs should test whether the market is willing to enter into a long-term agreement for the provision of certain services, defined in terms of time, duration and size.

9.2 Bearing in mind that resources will not allow progress on all actions simultaneously, please indicate your top 5 priorities for action by regulators in the near term.

Double-click or drag-and-drop items in the left list to move them to the right - your highest ranking item should be on the top right, moving through to your lowest ranking item.

TO DEPLY IN THE FOLLOWING ORDER:

1. Regulatory proposal 7,
2. Regulatory proposal 9,
3. Regulatory proposal 1,
4. Regulatory proposal 8,
5. Regulatory proposal 3

[OPTIONS:

1. DSOs to focus on the quality of their network data and data on distributed energy resources connected to their networks within the relevant legal framework, to ensure

they utilise data effectively where this will improve efficiency of their planning, operations and investment, and where necessary improve the accuracy of their records. It is important that network data collated is interoperable and the best institutional arrangements are determined for holding the data. Learn from those who move first in this area, for example through developing digital twins.

2. Where new entrants (whether distributed resources or new retail business models) are at a competitive disadvantage through lack of access to industry data, consider how to level the playing field. For example, if it is difficult for storage to know where best to connect, or the extent to which revenues may be available in future from providing constraint management solutions, so DSOs should consider providing interactive maps and/or network data and models, without endangering security and avoiding any misuse potential. If it is difficult for new entrants to develop products due to lacking consumer data that incumbents already have for their customers, consider provision of aggregated or anonymised data, ensuring compliance with the GDPR and protection of commercially data of third parties.

3. For data privacy and competition issues, energy regulators should work with the authorities responsible for data protection and competition to ensure mutual understanding of the issues in the energy sector and to ensure energy companies adopt best practice.

4. For cybersecurity, as a minimum, take forward the recommendations in the recent CEER report, including that:

- Even non-Operator of Essential Services (OES) actors should apply cybersecurity standards as close as possible to those of OES.*
- NRAs should encourage meeting compliance with the Directive on Security of Network and Information Systems and provide support in transposing horizontal regulation into sector-specific best practices.*
- NRAs need to be prepared to monitor and evaluate cybersecurity expenditure, particularly of regulated entities.*
- Management in energy-sector entities, including NRAs, should provide clear guidance on cybersecurity governance, including, the proper place and role for the chief information security officer (CISO).*
- TSOs/DSOs/Suppliers should have a cybersecurity strategy and they should set clear and effective cybersecurity measures prior embracing new technologies such as Cloud computing or systems for the handling of Big Data.*
- CEER and ACER may promote cultural change through activities such as partnerships and awareness campaigns.*

5. NRAs to monitor experience with new products and consider whether additional steps to empower or protect consumers are needed, and energy regulators to cooperate with other regulators through PEER to promote effective consumer protection. CEER to

publish a summary of experience across Europe once there is sufficient experience to learn from, considering also lessons from telecoms and financial services markets where relevant. Particular attention is merited on distributional issues – whether some parts of society are being “left behind” by developments.

6. Regulators to consider best model for regulation of intermediaries including responsibility for balancing and, where applicable, capacity requirements where they are selling energy. Where not already in place, consider arrangements for a default supplier for inactive customers.

7. As part of their regular processes, NRAs to review network tariffs to ensure they are fit for the future. Active customers who utilise new technology must receive cost-reflective signals reflecting the costs and benefits they bring to the network. All consumers, including those who are unable or choose not to engage, should pay a fair contribution towards the fixed costs of the system.

8. Regulators to monitor development of platforms and new marketplaces and seek to establish adequate oversight and feedback from stakeholders. Where barriers are identified, regulators to promote a level playing field for alternative technologies.

9. As part of their regular processes, NRAs to review network tariff regulation to remove capex bias and encourage the use of flexibility services where economic. CEER to monitor progress in implementing the recommendations of the Conclusions paper and collate best practices.

10. DSOs to explore market-based procurement for flexibility services, considering use of a flexibility marketplace where efficient and reviewing whether network tariffs send the right signals for network users.

11. DSOs and TSOs to review product definitions for grid services which make most efficient use of the services that distributed resources are able to provide without unnecessary restrictions (such as high minimum size requirements), as far as practical consistent across markets.

12. Regulators to review progress on TSO/DSO relationship in a more decentralised system and where necessary engage more closely in discussions to define respective responsibilities.

13. NRAs to strengthen their expertise, skills and capability in the digital realm.

14. Regulators develop best practice approaches to enable trials of new products and business models (“sandboxes”). CEER to provide a forum for exchange of learning from both EU-funded and national trials and studies and to feed back into the parameters for new trials.]

10. Do you have any other general observations to make on the topic of this consultation paper?

Several times in the CEER Consultation Paper the idea of “*decentralised energy trading*” at DSOs level is mentioned, where individual prosumers enter into transactions using their own assets, enabled by aggregators. This shows a gross misunderstanding of the merits of market liquidity and price visibility.

Much more important points, such as free formation of wholesale prices, toleration of price volatility, of scarcity and the abolition of price caps and price controls, are given no attention.

For example, this statement “*Digital and decentralised platforms and marketplaces enable new business models that rely on decentralised, potentially multi-level trading involving prosumers, new intermediaries (or in some cases removes the need for intermediaries) and existing market participants.*” understates the role of wholesale markets and of market participants in price formation.

Some phrases led us to believe that regulators go beyond their role of steering the sector. For example, quoting from Next Kraftwerke that “*Virtual Power Plants are **agents of a democratic shift** [our highlight] in power supply: **responsibility is shifted back to society** [our highlight].*” is not appropriate; similarly, with the phrase: “*energy companies are not the most trusted [...]*”.

We conclude by welcoming the opportunity to provide our views to the CEER consultation paper on Dynamic Regulation to Enable Digitalisation of the Energy System.