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**EFET Response to
Public Consultation of the European Commission
On Implementation of a Data and Transaction reporting Framework
for Wholesale Energy Markets**

Introduction and summary

The European Federation of Energy Traders (EFET)¹ welcomes the opportunity to respond to the European Commission's consultation on the preparation of the REMIT Implementing Acts. Disclosure of inside information and the establishment of the REMIT transaction reporting framework should ensure a level playing field for those trading on the EU wholesale energy markets and facilitate effective market oversight by ACER and National Regulatory Authorities (NRAs).

EFET supports the establishment of an efficient and robust regulatory framework for transaction reporting through a phased implementation, recognizing the complexities and size of the project including:

¹ The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. EFET currently represents more than 100 energy trading companies, active in over 27 European countries. For more information, please refer to: www.efet.org.

- the implementation of necessary changes to companies' business and IT processes;
- establishment of the trade reporting schemes and data definitions;
- establishment and testing of all of the data and communication standards.

The views expressed here build on earlier contributions made by EFET to the PwC/Ponton consultation on “REMIT technical advice for setting up a data reporting framework”, ACER public consultation on Recommendations to the Commission on the records of wholesale energy market transactions and the transaction reporting aspects of consultations relating to financial markets reforms (notably ESMA draft RTS).

EFET intends to provide a detailed commentary on ACER Final Recommendations to the European Commission for the data collection under REMIT in a separate submission.

The set up of REMIT reporting regime and infrastructure should be governed by the following key principles:

- there should be different requirements, in terms of content and frequency, for the reporting of standardised and non-standardised wholesale energy transactions. Existing standardised trade and process data formats/protocols for each class of data and a recognised product taxonomy, which are consistent across the commodities space (physical and financial), should be used to achieve maximum operational efficiency and avoid duplicative reporting structures;
- market participants should have the possibility to report all of their deals directly to the envisaged ARIS system at ACER regardless of where/how they are executed;
- there should be no *de minimis* threshold for reporting of wholesale energy transactions;
- a clear distinction needs to be made in the registration requirements for RRMIs between those providing services to third parties and those established by market participants themselves for the purpose of reporting their own transactions and/or those of companies within their corporate Group. For RRMIs established by market participants for reporting their own transactions the only requirement should be approval of the ability to communicate data to the trade repository. ACER should also maintain and make public a list of approved third party RRMIs;
- the transaction reporting requirements should cover only the following lifecycle events: trade confirmation (if not confirmed when initially reported in the suggested D+1/2 timeframe), trade cancellations, trade novations, and trade terminations before maturity;

- the reporting requirements under REMIT need to be consistent with the scope and the interdependencies of the reporting requirements under EMIR (and MiFID where relevant). Should the definition of financial instruments in the ongoing MIFID review be changed once the reporting requirements under EMIR and REMIT are finalized, the reporting specifications need to be sufficiently consistent to enable firms to switch between reporting to ACER-ESMA.

EFET looks forward to further opportunities to discuss these issues and assist ACER and the European Commission to establish a robust reporting framework under REMIT. Our detailed answers to the consultation questions follow below.

If you have any questions on our response please do not hesitate to contact Filip Sleeuwagen (F.Sleeuwagen@efet.org), the Co-Chair of the EFET Working Group on Transaction Reporting, Karl-Peter Horstmann (karl-peter.horstmann@rwe.com) or Cemil Altin (cemil.altin@edftrading.com) who are Chair and Vice-Chair respectively of the EFET Market Supervision Committee.

Yours sincerely,

On behalf of the European Federation of Energy Traders (EFET)



Jan van Aken

EFET Secretary General

EFET answers to the specific questions in the consultation

QUESTION 1 .What, if any, verification of their capacity to effectively interact with ACER for the purposes of data transfer should be required of

- a. market participants reporting transactions or**
- b. of third parties who report transactions on behalf of market participants?**

EFET strongly supports a multi-channel approach to reporting data to ACER, as specifically foreseen by REMIT, and therefore considers market participants should have full discretion to either report themselves or designate third parties to report on their behalf.

EFET supports a registration scheme that is clear and well defined, and applies to all market participants undertaking reporting arrangements themselves, and any third parties, including TSOs, reporting on behalf of market participants. Any reporting party required to register as RRM should conform to harmonised organisational and operational requirements to guarantee system quality, data security and confidentiality. However, the certification requirements for RRMs established by market participants for reporting only their own transactions (and/or those of entities within their corporate Group) should be limited to ensuring the ability to communicate data to the ACER system (ARIS). ACER should also maintain and make public a list of approved third party RRMs which will need to meet additional certification requirements such as data confidentiality and segregation of reporting for its individual clients. This will provide assurance and orientation for market participants that any particular RRM in question has undergone authorisation procedure by ACER and is eligible to render reporting services.

EFET disagrees with the findings of Chapter 5.1.5 of the Ponton/PwC Final Report (p.100) which suggest that TSOs, while being naturally in the position to deliver scheduling/nominations data, should not be obliged to undergo a full certification. Different data formats adopted by TSOs might hamper the efficiency of the REMIT reporting process, compatibility with ACER electronic communication protocols and data standards. A minimum level of harmonisation of the formats should be achieved through greater cooperation between TSOs and ACER, if the REMIT Reporting Document Format for the scheduling/nominations transaction stage of all gas and power transactions is to be applied from the start of the REMIT reporting regime, as recommended by Ponton/PwC.

Further work is necessary to define the certification requirements for RRM established by market participants and third party RRM building in the elements identified in Chapter 4.2.5 of the Ponton/PWC Report (p. 62). It remains unclear how, on the basis of criteria outlined out on pp.99-100, the certification scheme will evaluate the technical capabilities and qualifications of reporting parties and verify their compliance for them to be able to pass a certified accreditation.

It is therefore crucial that ACER accelerates the process for defining the RRM certification framework and requirements.

In developing the certification framework and requirements for RRM, ACER should give further consideration to providing an assurance that firms should not be held liable for a failure of a third party service RRM/exchange/broker to report the required information to ACER.

In this context, EFET strongly disagrees with one criterion stipulated in Chapter 5.1.5 of the Ponton/PWC Report (p.100), which suggests that in order to operate as a RRM an entity should demonstrate “incorporation of mechanisms for identifying and correcting errors in the reported data in order to ensure efficient monitoring by ACER”.

This effectively subjects RRM to responsibility for data error handling and correction, in which case any delegation from reporting parties is severely jeopardised thereby triggering concerns in relation to the liability for erroneously reported data and data ownership.

We would like to further emphasise that the operational requirements for third party RRM under REMIT should be coordinated and harmonised with the operational requirements set by ESMA for reporting to trade repositories under EMIR.

QUESTION 2. What, if any, additional steps do you consider the Commission should take to ensure an effective interaction between transaction reporting under financial regulation and under REMIT?

Given the complexity of the existing and forthcoming reporting obligations under subject to REMIT, EMIR and possibly also MiFID, the relevant regulatory authorities must implement reporting requirements in a coordinated way and allow appropriate and sufficient implementation period for non-financial companies to adapt their operational infrastructure and/or identify and secure third party solutions. This cooperation should avoid the creation of any sort of duplicative or overlapping reporting regimes and arrangements.



Particular attention should be given to an appropriate alignment of the trade data fields and reporting formats required under EMIR and REMIT. They should be either a full convergence/reciprocity of reporting formats or the REMIT data fields should form a subset of the EMIR data fields in so far as a market participant should be able to submit all required information only once to a trade repository, which will feed into ACER information system ARIS. There shall be no favoured mechanism or reporting route: if both routes are permissible, market participants shall be free to report to ACER ARIS or to an ESMA Trade Repository.

In addition, there needs to an alignment of key definitions under both REMIT and EMIR reporting (and also MiFID where appropriate).

EFET has repeatedly emphasised in our earlier contributions to the related consultations held by ACER and Ponton/PWC the importance of having an aligned set of key definitions and terminology for example in areas such as 'Order to Trade', 'Market Participant Subject to Reporting Obligations', 'Derivative/Derivative Contract', 'Spot Market', 'Organised Market Place'.

If the definition of a financial instrument is changed under the ongoing review of MiFD the reporting specifications across the physical-financial space need to be sufficiently consistent to enable firms to switch between reporting to ACER-ESMA.

There is also need to ensure the alignment of coding schemes for market participants. Consideration should be given to the use of Legal Entity Identifier ('LEI') which differs in the context of its applicability in REMIT and EMIR and Universal Trade Identifier (UTI). It is crucial that ESMA and ACER use the same taxonomy particularly in relation to LEIs and UTIs, to be able to exchange data effectively and efficiently.

EFET believes that the ACER code database (CEREMP) should not be seen as an independent source of reporting party identifiers as suggested in Chapter 5.1.3 (p. 87) of the Ponton/PWC Final Report. EFET is of the opinion that the ACER database should be based only on EIC and LEI codes.

In order to ensure that non-financial firms have sufficient time to implement the necessary requirements, it is recommended that there is effective coordination of the go-live date for the reporting requirements under REMIT and EMIR. Careful consideration is needed as to whether industry can deliver both EMIR and REMIT reporting to the same timeframe. As such, it may be appropriate to allow for a minimum of 6 months between the envisaged EMIR go live of 1 January 2014 and the establishment of reporting under REMIT subject to the timing for when the timing for the REMIT implementing rules are agreed. The Commission

should consider whether it would be possible to provide some temporary relief on the timing for establishing the reporting framework if it becomes clear it is not deliverable in the timeframe envisaged by the REMIT legislation.

QUESTION 3. Do you agree that it is not appropriate to include a *de minimis* threshold for reporting standard transactions carried out using organised market places, brokers or trade matching facilities or which are cleared?

EFET advocates against any *de minimis* threshold for the purposes of reporting standard transactions. EFET agrees that thresholds would be too complex to define, might induce transaction fragmentation and not provide regulators with oversight of the whole market of transactions.

QUESTION 4. Do you agree that the definition of "standard commodity transactions" and the creation of a white list for fully reportable transactions, as set out in the consultant's report, represents a suitable approach?

EFET supports a differentiated reporting regime for standard and non-standardised transactions in respect of both the content/detail and also frequency for reporting.

EFET recommends the creation of a general list of reportable contracts and transactions described by their characteristics and supports the 'white list' approach, provided it relies on clear and unambiguous set of definitions that reflect accepted market practices and existing market standards.

There is a need to develop an exhaustive list of transaction types and transaction stages to specify the REMIT reporting obligation as opposed to a non-exhaustive list as per Ponton/PwC recommendation made in Chapter 5.1.1 (p.84).

EFET disagrees with the recommendation made by Ponton/PWC in Chapter 5.1.3 (p.89) of the Final Report on the planning of implementation phases for short and long form reporting.

EFET proposes that a phased implementation approach to reporting should follow the process outlined in the table below.

REMIT Implementation Phase	Long form reporting is mandatory for standard commodity transactions defined by	Not reportable	Reported as short form
Phase 1	“White list”	Anything not on the “white list”	
Phase 2	“White list” + “1st extension” (subset of “grey list” to be designated by ACER)		Anything not on the “white list” (“black list”)

In phase 1, long form reporting should be mandatory for all:

- Transactions on electronic brokerage platforms (e.g. Trayport);
- OTC Cleared transactions;
- Transactions on exchanges (e.g. members of EUROPEX);
- Transactions confirmed by means of electronic deal matching systems (e.g. using EFET eCM);
- Transactions nominated electronically for clearing by means of automated deal clearing systems (e.g. EFET eXRP).

EFET strongly believes in maximum standardization of the process/format of data reporting, preferably based on CpML. EFET recommends that the European Commission and ACER develop and adopt standards, in close consultation with market participants. EFET further notes as per Chapter 4.6.4 (p.81) of the Ponton/PWC report that although NRAs do not have a consolidated view on reporting data formats as such, they recognize the need for standardization and the fact that any harmonised standards to be adopted should take existing market standards into account as much as possible.

QUESTION 5. In relation to transactions not covered by the "white list",

- a. Do you agree that these transactions should be subject to reduced "short form" reporting requirements?**

EFET recommends to include in the white list:

- bilateral transactions (excluding intragroup transactions) executed without broker or outside brokerage SEFs, but under a standard master contract, and
- all transactions nominated electronically for clearing by means of an automated deal clearing system specific to a certain clearing provider.

EFET supports the proposal to introduce a ‘short form’ reporting requirement for non-standard transactions, provided there is a clear definition of this ‘short form’ reporting requirements.

We believe that this “short form reporting” should be developed in close coordination with stakeholders in order to define a format that allows companies to report, on a simplified and automated basis, some basic information on non-standardised transactions. This process must avoid as much as possible manual processes that would (i) increase the risk of reporting mistakes and operational risk (thereby undermining the robustness of the data received by NRAs) and (ii) create undue burden on market participants.

EFET highlights here that it does not support the ACER proposal to submit the full contract of non-standard transactions. EFET is refining its thinking on an appropriate framework for reporting of non-standard transactions and will forward its views to the commission on this specific issue in the near future.

b. Should these transactions be reported at a defined interval or only upon request of ACER?

EFET recommends to collate the data reported in the ‘short form’ for non-standard transactions at a defined interval, and sees one month following the execution as an appropriate period. Consideration should be given to a phased reporting implementation for non-standard transactions, recognising that significant work remains to be done to establish an appropriate reporting framework.

c. Should the frequency of "short form" reporting be related to the size of the market participant or the overall frequency or volume of trading in which it is engaged?

As stated in our response to Q3, EFET does not support a differentiated discriminatory approach towards market participants with regards the reporting requirements. As such, the

reporting frequency for these non-standard transactions should be applied in identical manner to all market participants.

QUESTION 6. Do you agree that the definition of wholesale energy products extends to contracts relating to LNG and storage, including landing and storage capacity?

EFET is of the opinion that the provisions of REMIT, such as the definition of inside information in Art. 2 (1) and the exemption in Art. 3 (4) (b), speak in favor of including contracts relating to certain LNG related contracts and storage as wholesale energy products, but not all kinds of possible contracts / information are to be covered, and hence certain exemptions have to be made for e.g. LNG cargo movements and related contracts, such as landing agreements, to avoid a REMIT regulatory perimeter which is too broad and uncertain. Also economically these contracts are very much relevant for the price formation process on the EU natural gas markets.

In the relation to REMIT text, under the definition of Inside Information it is clear that information “related to the capacity and use of LNG facilities, including planned and unplanned availability of those facilities” is considered to be inside information where it is precise, would likely to significantly affect prices of wholesale energy products and is not already public.

Article 2(11) of the EU Directive 2009/73 defines LNG facility and clearly links it to the regasification facility that essentially converts LNG into a form which is fit for sale on the wholesale energy market (natural gas). This means that under REMIT, EFET considers that information relating to the availability of those regasification (or liquefaction) facilities at the EU entry/exit points to the wholesale energy market are appropriately captured as Inside Information (subject to the Inside Information criteria), but also accounts for existing measures taken by those facilities in terms of data reporting to provide a clear view of the total capacity and the use of the facilities.

It follows from the above that in order for ACER to fulfill its market monitoring role it would need to capture details of the contracts/transactions for the marketing of the capacity of those facilities in order to detect whether those transactions were in anyway manipulative in terms of affecting the supply of natural gas into the wholesale energy market. Clearly transparency of available capacity at the LNG facility is key to an efficient market functioning and is already adequately ensured today across Europe.

However, LNG is a different product to natural gas and electricity in so much as it requires both regasification and often blending before it meets the required specification to enter any particular wholesale energy market be that in Europe, Asia or elsewhere. From a supply chain

perspective, there are LNG related contracts that are not relevant to any particular wholesale energy market, as they are relevant to the global market for LNG where commercial decisions about LNG cargo movements are typically made in response to global supply and demand price signals. For example, a diversion of one cargo away from the EU territory to Asia simply frees the capacity at the terminal it was due to arrive which makes it freely available for other cargos if commercially attractive to do so. EFET would therefore question if such LNG cargo movements and related contracts, such as landing agreements, are in scope of REMIT.

In conclusion, to simply include all kind of LNG related contracts as wholesale energy products is too broad and will create greater uncertainty as to the boundaries of REMIT. EFET believes that in order to allow ACER to fulfill its market monitoring role, it will need the contractual/transaction information about the marketing of capacity of LNG facilities. This would be consistent with what is already included in the definition of inside information around the “capacity and use of LNG facilities”, and is aligned with the REMIT perimeter in relation to monitoring of wholesale energy markets as opposed to upstream markets.

QUESTION 7. Do you agree that generator connection agreements are normally a fundamental data item and not a contract relating to transmission?

Connection agreements are bilateral contracts between generators and TSOs and will include confidential information with regards to the technical characteristics of the connection that is being provided. The connection agreement should therefore not be considered as fundamental data. EFET recognises that the connection of new generation to the TSO network could impact on the balance of fundamentals in a market but that sufficient information on the evolution of connections and system development are already being published by TSOs as part of their network development statements as required by the Third Energy Package

QUESTION 8. Do you agree that where one of the parties to a transaction organises the market place, that party should have sole responsibility for reporting the transaction?

As mentioned above EFET supports a multi-channel reporting approach where a market participant can freely choose whether to execute the reporting himself or delegate this to a service provider which includes the organiser of a market place. In case of delegation to a market organising party, there must be a clear agreement whereby the reporting duties and associated liability are fully transferred from one party of the transaction to the other. In order

to guarantee an adequate delegation, it is of utmost importance that market organising party uses the same reporting process, data content and technical communication aspects.

QUESTION 9. Do you agree that where neither party to a transaction organises the market place, that both parties should separately remain responsible for reporting the transaction?

As explained above, EFET continues to support a multi-channel reporting approach, where both counterparties to a transaction bear reporting obligation and where each of those market participants can independently and freely choose whether to execute the reporting on its own behalf or delegate this to a service provider. Requiring that only one counterpart reports a unique trade will create significant legal (given the obligations on individual firms in REMIT) and logistical issues for the industry. ACER can readily access trade matching software to match transactions reported by both counterparts. It is not appropriate given the legal issues to effectively outsource this issue to the industry to resolve – it would also not be the most efficient solution. In this respect we strongly disagree with the conclusion in the Ponton/PWC final report (Chapter 5.1.4, p.97).

QUESTION 10. Do you agree that daily reporting of standard transactions is the most appropriate frequency to allow ACER to effectively monitor wholesale energy markets?

EFET agrees that D+1/D +2 reporting frequency to ACER should be sufficient for market surveillance purposes particularly as both exchanges and OTC brokers are required under REMIT to have arrangements in place for monitoring market activity. They will therefore become frontline ‘regulators’ of their own markets with access to real time transaction information.

QUESTION 11. Do you consider it would be possible for market participants to report their transactions on a daily basis?

It is important to strike an appropriate balance in terms of ensuring access for regulators to the information required to monitor wholesale energy markets, and at the same time not placing undue burden on market participants. A requirement for best endeavours of D+1 reporting of transactions would strike such a balance with a maximum timeframe of D+2. This would

allow market participants to implement an end of day (batch) solution for reporting transactions to ACER.

As rightly stated in Chapter 5.1.4 (p.97) of Ponton/PWC Final Report, the time span between the trade event and the confirmation event will substantially reduce the errors in the reported data. Therefore allowing up to D+2 to report would significantly reduce the amount of trades that are resubmitted once confirmed after D+1.

QUESTION 12. Do you agree that reporting of orders to trade (bids) should not be collected by ACER from market participants, other than organised market places, at least initially?

EFET agrees to the proposed way forward to collect orders to trade from exchanges and/or brokers as market participants do not generally capture this information in a systematic or comprehensive way within their own systems.

In relation to this specific topic, EFET disagrees with the statements on ‘order stage’ in Chapter 3.4.2 (p.29) and Chapter 5.1.3 (p.88) of Ponton/PWC Final Report – although traders are the source of order data – they are being placed in the platform operated by the broker/exchange.

On a related note, EFET further disagrees with the Ponton/PWC Final Report text in Chapter 5.1.3 (p.88) on ‘scheduling/nomination stage’ and (p. 95) on ‘reporting obligations for the scheduling/nominations stage – although market participants are the source of such data they are being submitted to TSOs who will record them and as such this information should be collected directly from them.

QUESTION 13. For which stages in the lifecycle do you consider that it is necessary to collect transaction data?

Lifecycle events to trade can occur for a number of reasons, and a balance needs to be struck in terms of capturing all events in a reporting regime and the complexity and duplication of reporting requirements on firms. Reporting the entire transaction life cycle would mean that firms would be required to report any trade amendments which could significantly complicate the reporting requirements with no added value for regulatory authorities for purpose of their market monitoring duties.

EFET recommendation to start reporting from D+1/D+2 optimizes the use of confirmed transactions so that it limits an additional reporting burden caused by changes and corrections to unconfirmed transactions. The following lifecycle events should be covered in the data collation process:

- Cancellations;
- Novations;
- Terminations before maturity;
- Confirmations (only for those transactions which were not yet confirmed at the D+1/D+2 reporting date).

EFET bring to your attention the fact that the NRAs view on 'issue of lifecycle data' as presented in Chapter 4.6.1 (p.79) of the Ponton/PWC Final Report does not provide any rationale behind the need to identify trade amendments as lifecycle data nor on the definition of such amendments.

EFET notes Chapter 5.1.1 (p. 84) of the Ponton/PWC Final Report on terminology concerning transaction lifecycle stages fails to provide any justification for the need to report those stages.

QUESTION 14. Do you agree that it is appropriate to develop a specific standard product taxonomy for reporting transaction data to ACER?

As mentioned above, it is crucial that reporting taxonomies of ACER and ESMA are harmonised and fully aligned and EFET therefore disagrees with the recommendations made in Chapter 5.1.2 (p. 86) of the Ponton/PwC Final Report on this issue..

EFET supports the proposal to develop a harmonised product taxonomy and product IDs for all energy commodity contracts. In order to ensure implementation costs and process are efficient it is essential to use existing practices to the large extent possible (e.g. CpML).

EFET supports establishing a list of wholesale energy contracts (ideally as precise as possible) for which standard reporting is mandatory to facilitate data collection process under REMIT with a phased approach. While responsibility to map to this standard would rest with either market participants or third parties reporting on their behalf, this product taxonomy should foresee 'some degree of flexibility and provide a possibility under "other" category to capture

products which could not yet be labelled/categorised or defined at a particular implementation stage and to which the standard reporting form would not apply.

QUESTION 15. Do you consider the items reportable under the draft electricity transparency rules envisaged by the Commission's consultation mentioned above sufficient for monitoring with regard to electricity fundamental data and which reporting channel(s) would you consider appropriate?

Yes, EFET considers the items reportable under the draft electricity transparency rules envisaged by the Commission's consultation on “Enhanced data transparency on electricity market fundamentals” to be sufficient for monitoring purposes with regard to electricity fundamental data.

EFET does not support direct reporting of fundamental or published REMIT inside information data where it is already published on a publically available website (centralised at a national, regional or European level). REMIT indicates that ACER and NRAs should make use of public sources of fundamental data where possible (Article 8 Paragraph 5), such as Transmission System Operators, and this information should be reported *through centralised existing or future platforms*, such as ENTSO-E, to avoid additional unnecessary information channels and duplication of firms’ compliance efforts. It is recognised that regulators need to have timely and effective access to fundamental data and inside information in order to efficiently monitor markets. EFET believes this can be achieved through reporting platforms that are centralised (at least initially) at the national level, and we encourage to allow TSOs to recover any justifiable costs associated with providing national disclosure platforms with fundamental data.

Currently, there is no standard format for how fundamental data is published by market participants either on their own websites or through some form of platform (e.g. BRMS in the UK, EEX platform in Germany etc). The Third Energy Package indicates what should be published but not the format of publication, and as such individual firms and platforms have taken different approaches to the way in which data is being published. EFET does not support the development of a standardised format for publishing/reporting fundamental data at this point in time, but recognises the importance of information being published/reported in an efficient way and made available in a transparent, user-friendly and easy accessible way. The development of a single standard would take significant time and expense, and it appears more appropriate for ACER to gather information from existing regional and national platforms in order to avoid unnecessary costs and double reporting. Furthermore, direct reporting of inside information, on top of disclosure, will imply significant additional costs for market participants. Firms should also be able to retain the option to publish inside

information on their own websites – where significant resource and time had already been invested to develop solutions.

With regard to the ‘Transparency Information’ as reported via 714/2009 and 715/2009, EFET would like to point out that there are very good reasons why this information is published on an aggregate basis, and such reasons do not only relate to confidentiality but also to market relevancy, especially in case of gas. While we recognise the purpose of ACER monitoring role of detecting possible market abuse by market participants is different from the publication purposes by TSOs/SSOs under the 714/2009 and 715/2009 regulations, the ACER mandate, as written, will in fact duplicate the existing information streams of operators under these two regulation, unless ACER collects the ‘raw data’, as provided by the asset operators, directly from these SOs.

Regulated information is already published via TSO/SSO/LNG terminal forums (in aggregated form or not), and is therefore made available by market participants to TSOs/SSO/LNG Terminals in the context of 714/2009 and 715/2009. EFET is very much concerned about multiple and substantially overlapping information streams to all relevant parties. The resulting overall operational burden, and the associated costs are heavy, and every reporting initiative adds one more layer to this.

As Art. 8.5 of the REMIT Regulation stipulates, this information should preferably be collected from existing sources where possible. EFET believes that ACER should maximize its efforts to avoid asking market participants to initiate additional unnecessary information streams.

In conclusion, EFET believes that market participants themselves should only be the providers ‘of the last resort’ with regard to regulated data collection as referred to by Art. 8.5 and that all reasonable efforts must be made to avoid duplications and overlap in data-streams.

QUESTION 16. What gaps do you consider to exist in relation to fundamental data related to gas, and can this be accessed without the creation of a framework for gas equivalent to that envisaged for electricity and which reporting channel(s) would you consider appropriate?

Effective information transparency is crucial to the development of efficient and integrated markets and key to understanding and managing the security of supply. The appropriate requirements for information disclosure along the gas value chain need to be considered with these overall goals in mind. It is also important that the level of transparency should be

balanced against ensuring better utilisation of assets, the need to give investors sufficient incentives to build assets, and protecting contractual agreements that underpin investments. This is particularly important given the extent of investment that will be required over the coming years to continue to meet the energy requirements and objectives of the EU.

Access to fundamental data plays an important role in facilitating competitive and efficient markets. The Third Energy Package has constituted a crucial step in improving transparency levels. However, there is also a need to consider further whether additional binding requirements are necessary to ensure an appropriate degree of interaction between national transmission systems and upstream production. The provision of relevant information at import points and terminals (or a sub-terminal at which the TSO publishes real-time flow information) should be seen as an important contribution to the overall level of transparency in the gas sector. It is with this in mind that **EFET continues to urge ACER and the EC to ensure that all TSOs publish true real-time gas flow information at entry and exit points in each market area.**

While improvements in gas production transparency are desirable, the potential issues need to be considered carefully. It is also crucial that the specifics of the gas sector are taken into account in defining any additional requirements. The process and timing for implementation of any proposals will also need to be considered – for example whether a phased process is appropriate. It will also be important to understand how any transparency requirements fit into the REMIT regime.

With all this in mind, there are some areas that warrant further consideration by ACER, in particular, notification of unplanned outages and planned maintenance information that should be consistently applied across all Member States. A minimum and practicable way forward for the moment would be for TSOs to publish aggregated information on gas production for both unplanned outages and planned maintenance. The unplanned outage information could be in the form of a market message released as soon as reasonably practicable of the outage occurring, stating at terminal level (or a sub-terminal at which TSO publishes real time flow information), there has been a production and/or terminal outage. There will be the need to define the appropriate disclosure threshold. The planned maintenance information could begin with sub-terminal maintenance schedules published on (1st May) for the forthcoming year.

In addition to the issues already identified, a number of other factors need to be considered in developing any further improvements. These include:

- An assessment of the costs and benefits via a regulatory impact assessment;
- The level of disaggregation at which information should be published;
- The processes and responsibilities for disseminating information to the market;

- The frequency, threshold and timing of information provision;
- Restricting the ability of a buyer to renominate on a field where an outage has been declared;
- The need to maintain and enhance effective competition;
- The form of any exemptions including how they could be assessed by regulators.