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ORGALIME RESPONSE TO THE PUBLIC CONSULTATION ON THE ENERGY MARKET DESIGN

EXECUTIVE SUMMARY

Orgalime welcomes the Commission's commitment to redesign the EU electricity market to provide a New Deal For Consumers and to transform the EU energy system by taking full advantage of available and future innovative low carbon and energy efficiency technologies and services.

A more modern, competitive and flexible set of arrangements to govern the generation, transmission, distribution and end use of electricity, including the use of electricity infrastructure, is needed for bringing the benefits of the Energy Union and 2030 Energy and Climate Framework, to consumers, businesses, industry and society as a whole. We consider a properly redesigned electricity market as a milestone for the realisation of the Commission's headline priority of "a forward looking, resilient EU Climate and Energy Policy" as well as further headline priorities, namely the Digital, Jobs and Growth and Circular Economy initiatives.

As such, we believe that the future energy market design requires a holistic approach, which includes all levels of the energy value chain starting with giving special attention to demand efficiency and all sources of flexibility to close the current regulatory and innovation gap at distribution level. The new market should be much more market driven and competitive, where price peaks function as investment signals rewarding flexible, clean and "fast delivery" technology solutions. We support an evolution of the Energy Efficiency Directive to close current gaps at end use, distribution and smart grid level and an evolution of the Energy Performance of Buildings Directive towards "connected buildings" to carry forward the energy efficiency successes of the existing Ecodesign Directive to the different systems levels. The existing barrier of inappropriate criteria of the TEN-E Regulation for smart grids projects should be removed.

We support that better linking wholesale and retail market should be a priority, though not only in terms of a "top down" approach so as to bring more convergence between wholesale and retail prices, but first and foremost as a "bottom up" approach through full consumer empowerment. We promote the free flow of electricity in the EU internal market as a fifth freedom for Europe. Consumers need to be able to achieve better control over their energy costs, consumption and overall management through the combination of decentralised energy generation energy management systems and smart appliances.

Support schemes for electricity generation from Renewable Energy sources should be more market oriented and coordinated:

Orgalime, the European Engineering Industries Association, speaks for 43 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 24 European countries. The industry employs some 10.3 million people in the EU and in 2014 accounted for more than €1,825 billion of annual output. The industry accounts for over a quarter of manufacturing output and a third of the manufactured exports of the European Union.

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Energy efficiency technologies, Demand Response services, all different sources of flexibility and smart grids are “no regret options” to make costs of renewables sustainable. We are convinced that the realisation of the new 2030 climate and energy targets and EU world leadership in Renewable Energy Technologies cannot be achieved without a thorough implementation of the “Energy Efficiency First” principle throughout all market segments. In addition, designing the new energy market together with the Digital Agenda matters to build in the reality of the ongoing rapid change that the use of ever more digital technologies in industry, including the energy and manufacturing sectors, brings.

A robust, predictable and growing carbon price is necessary coupled with instruments, which are not overlapping but coherent at European level.

Regarding capacity mechanisms, Orgalime asks that progress should be made on the assessment of the adequacy of the power system. Common methods and a common European approach are necessary. The strong focus on generation capacity in the context of the generation adequacy debate requires balancing – the different options of ensuring capacity should be able to compete at equal level. Virtual power plants and demand aggregation should be fostered for the benefit of end user participation in demand response that should be on equal footing with generation, including in intraday markets. If properly designed, the necessity of capacity mechanisms should diminish.

In the subsequent chapters, Orgalime presents its responses to:

- the public consultation on the New Energy Market Design
- the public consultation on Risk Preparedness in the area of Security of Electricity Supply, and
- the Communication on “A New Deal for Energy Consumers”.

I. ORGALIME ANSWERS TO THE 21 CONSULTATION QUESTIONS RAISED BY THE MARKET DESIGN COMMUNICATION

- 1) Would prices which reflect actual scarcity (in terms of time and location) be an important ingredient to the future market design? Would this also include the need for prices to reflect scarcity of available transmission capacity?

Orgalime response: Prices, both wholesale and retail, are key ingredients of the future market design and retail prices should reflect the time of use, location of use and infrastructure used (although some specific locations should not be penalised). All sources of flexibility and demand side resources impact on cost efficiency and should be recognised. Prices reflecting actual scarcity will do this. We therefore agree that price signals reflecting actual scarcity are important for the future market design.

- 2) Which challenges and opportunities could arise from prices which reflect actual scarcity? How can the challenges be addressed? Could these prices make capacity mechanisms redundant?

Orgalime response: All alternatives should be available on an equal footing and specifically the low capital intensive ones, such as balancing demand and supply in new business models, aggregation and virtual power plants. Allowing for price peaks will change the dynamics of the market. Demand will shift and investment become more cost efficient. Capacity mechanisms and better functioning wholesale markets will mainly affect the “energy component” of the price and will not immediately incentivise end users to change their consumption patterns: Self-consumption, energy efficiency, smart distribution grids, demand response and storage have to be key elements of the market reform.

- 3) Progress in aligning the fragmented balancing markets remains slow; should the EU try to accelerate the process, if need be through legal measures?

Orgalime response:

The integration of intra-day and day-ahead markets should be finalised with the goal to ensure a level playing field between supply side and flexible demand side resources. Barriers should be removed for all flexibility options, such as flexible power plants, storage or demand response (consumers should be given third party access right, the right to participate directly or by aggregation to demand side resources ...). Consumer participation should be highly supported.

- 4) What can be done to provide for the smooth implementation of the agreed EU wide intraday platform?

Orgalime response:

When implementing capacity markets in Europe, generators should be given sufficient visibility to invest in necessary generation assets. Allowing consumers to monetise their flexibilities on the markets (including via an aggregator), will provide them with sufficient revenues while incentivising them to change their consumption patterns to serve the electricity system. Nevertheless, this is only possible if markets can be opened up to aggregation and Demand Response, including cross border, and if markets can value flexibility at a fair price through dynamic retail tariffs. Starting on a regional level ("electrical neighbours") can help the implementation of the intraday platform in view of full scale European harmonisation.

- 5) Are long-term contracts between generators and consumers required to provide investment certainty for new generation capacity? What barriers, if any, prevent such long-term hedging products from emerging? Is there any role for the public sector in enabling markets for long term contracts?

Orgalime response:

For competitiveness reasons, energy intensive industries need these types of contracts, though innovative business models, not even at national but at European level. This type of contract would give clarity for their investments and give visibility for generation and production investments. Any contractual arrangement should be simple, transparent and fair as well ensuring that accessing any service provider including aggregated pool of demand side resources is facilitated.

If the market is changed towards more volatility, more competition with more market participants and short intraday trading periods etc., we expect higher demand for long term contracts. The type and volume of such available, innovative long term contracts can then develop from the market.

- 6) To what extent do you think that the divergence of taxes and charges levied on electricity in different Member States creates distortions in terms of directing investments efficiently or hamper the free flow of energy?

Orgalime response:

The retail price represents the sum of three components: wholesale part, transmission/distribution tariffs as well as taxes and levies with significant variations from one Member State to another. More convergence is needed. Taxes and levies should be harmonised in the short to mid-term. Renewables support schemes should be more market oriented. Retail prices should better reflect the wholesale price.

- 7) What needs to be done to allow investment in renewables to be increasingly driven by market signals?

Orgalime response:

Feed in tariffs are a costly instrument with drawbacks. In the future, other long-term instruments that are more market driven, such as a robust, sufficiently high CO2 price, certificates of origin across Europe or contracts for differences, should be strengthened and gain momentum for the long term.

The consumer's right to self-generate and self-consume via a harmonised system at EU level should be ensured.

- 8) Which obstacles, if any, would you see to fully integrating renewable energy generators into the market, including into the balancing and intraday markets, as well as regarding dispatch based on the merit order?

Orgalime response:

Orgalime is supporting more renewables and confirms that the mix between support schemes and market participation schemes today is hindering a more sustainable, cost efficient energy system in general. Provided a robust, predictable and growing CO2 price is in place, market rules could move gradually towards energy generators selling their electricity to the market. Furthermore, renewables energy generators may contribute to the balancing costs in equal terms with other generators.

- 9) Should there be a more coordinated approach across Member States for renewables support schemes? What are the main barriers to regional support schemes and how could these barriers be removed (e.g. through legislation)?

Orgalime response:

The energy transition, and especially renewables deployment, has a cost. A more coordinated approach with more regional cooperation as a basis for a fully harmonised European system as the target is indeed needed. The more harmonisation, the more cost- efficient the energy transition will be. This has to be linked with promoting the consumer's right to self-produce and self-generate and to energy efficiency and smart grids deployment and incentives.

- 10) Where do you see the main obstacles that should be tackled to kick-start demand-response (e.g. insufficient flexible prices, (regulatory) barriers for aggregators / customers, lack of access to smart home technologies, no obligation to offer the possibility for end customers to participate in the balancing market through a demand response scheme, etc.)?

Orgalime response:

All flexibility options should have the opportunity and preconditions to fairly compete in the market. Regarding Demand Side Flexibility, we refer to Orgalime's response to the CEER Consultation on Demand Side Flexibility available at the following link:

http://www.orgalime.org/sites/default/files/position-papers/9259_PP_2013_12_20_Orgalime_response_CEER_Consultation_Demand_Side_Flexibility_20_Dec_13.pdf

- 11) While electricity markets are coupled within the EU and linked to its neighbours, system operation is still carried out by national Transmission System Operators (TSOs). Regional Security Coordination Initiatives ("RSCIs") such as CORESO or TSC have a purely advisory role today. Should the RSCIs be gradually strengthened also including decision making responsibilities when necessary? Is the current national responsibility for system security an obstacle to cross-border cooperation? Would a regional responsibility for system security be better suited to the realities of the integrated market?

Orgalime response:

The wholesale market and its governance is in general functioning well. However, further integration of European electricity markets should be addressed, both at EU and regional level, based on a thorough assessment of generation adequacy and the no regrets options of energy efficiency and flexibility.

- 12) Fragmented national regulatory oversight seems to be inefficient for harmonised parts of the electricity system (e.g. market coupling). Would you see benefits in strengthening ACER's role?

Orgalime response:

The existing REMIT Regulation should in our view be better implemented and enforced first. The independence of national regulators is an essential prerequisite for ACER to properly

exercise its (current) responsibilities.

- 13) Would you see benefits in strengthening the role of the ENTSOs? How could this best be achieved? What regulatory oversight is needed?

Orgalime response:

ENTSO-E should concentrate on its responsibilities of network planning at pan-European level to find out most cost efficient ways to develop the transmission network taking into account trans-border transmission lines (PCIs, TYNDP).

- 14) What should be the future role and governance rules for distribution system operators? How should access to metering data be adapted (data handling and ensuring data privacy etc.) in light of market and technological developments? Are additional provisions on management of and access by the relevant parties (end-customers, distribution system operators, transmission system operators, suppliers, third party service providers and regulators) to the metering data required?

Orgalime response:

Distribution system operators (DSOs) have the core responsibility of investing in smart and efficient grids. For these, there must be proper means available, which are usually in the network tariffs. Network tariffs are not sufficiently incentivising DSOs today to invest in smart grids.

EU rules must prioritise more system flexibility in order to increase the use of distributed energy resources, such as distributed generation, and dispatchable load and storage systems. In this respect, DSOs should be entitled and encouraged through incentives to procure flexibility services to address their grid constraints at local level.

However, DSOs must be truly unbundled, to be neutral players, with a mission to optimise the system, the infrastructure, and the balance of supply and demand at their level first, then managing interactions with the wider power system at national and regional level. DSOs should be neutral market facilitators and should not have an advantage over other service providers. Depending on the different Member States' situation, this can be a starting point in the new market design but must not hinder further market evolution towards more innovative models with independent third party data managers, or force Member States, which have already more advanced models (with data managers other than DSOs) in place to take a step backwards.

- 15) Shall there be a European approach to distribution tariffs. If yes, what aspects should be covered; for example tariff structure and/or, tariff components (fixed, capacity vs. energy, timely or locational differentiation) and treatment of self-generation?

Orgalime response:

Yes, network charges and duties, taxes and levies require an approach of European convergence. Networks charges and tariffs structures as such should be non-discriminatory, cost-related and an incentive for smart grids investments.

- 16) As power exchanges are an integral part of market coupling –should governance rules for power exchanges be considered?

Orgalime response:

No comment.

- 17) Is there a need for a harmonised methodology to assess power system adequacy?

Orgalime response:

Power system adequacy should not be made at national level only. To go beyond national levels, a common methodology should be decided and implemented. In this respect, there is a need to update Directive 2005/89/EC and to better integrate demand side flexibility potential and participation to the security of supply.

- 18) What would be the appropriate geographic scope of a harmonised adequacy methodology and assessment (e.g. EU-wide, regional or national as well as neighbouring countries)?

Orgalime response:

A properly harmonised and implemented methodology based on regional initiatives and inclusive of all flexibility sources would create synergies and reduce investment costs significantly. We support encouraging regional initiatives with a view to moving towards full scale European convergence.

- 19) Would an alignment of the currently different system adequacy standards across the EU be useful to build an efficient single market?

Orgalime response:

Yes, an alignment would be useful. It should be in line with the encouragement of regional initiatives with a view to full scale European convergence, which may render capacity mechanisms redundant.

- 20) Would there be a benefit in a common European framework for cross-border participation in capacity mechanisms? If yes, what should be the elements of such a framework? Would there be benefit in providing reference models for capacity mechanisms? If so, what should they look like?

Orgalime response:

As long as this is inevitable, the EU framework should ensure that any capacity market mechanisms are resource-agnostic, putting on equal footing all alternatives and especially low capital intensive ones, such as balancing demand and supply in new business models, aggregation and virtual power plants and that cross border participation is enabled. A certain number of preconditions should be met at European level such as transparency, measure & verification mechanisms, fairness and non-discrimination.

- 21) Should the decision to introduce capacity mechanisms be based on a harmonised methodology to assess power system adequacy?

Orgalime response:

See our answer to question 20.

II. COMMENT ON THE CONSULTATION ON RISK PREPAREDNESS IN THE AREA OF SECURITY OF ELECTRICITY SUPPLY

We agree that Member States should be required to draw up risk preparedness plans coupled with proper measures, including voluntary participation of industry, making sure that demand side management potential is fully tapped and cyber security secured, which has to be dealt with horizontally.

III. COMMENTS ON COMMUNICATION ON “A NEW DEAL FOR ENERGY CONSUMERS”

Orgalime fully supports the ten recommendations given in the Commission Communication, as outlined below. Orgalime urges policy makers to translate these recommendations into action as part of the announced legislative market redesign proposal in 2016. Particular attention should be given to closing the regulatory gaps for distribution and smart grids through the review of the Energy Efficiency Directive:

1. Providing consumers with frequent access, including in near real-time, to partially standardised, meaningful, accurate and understandable information on consumption and related costs as well as the types of energy sources.
2. Making switching suppliers quick and simple, enabled by transparent and directly comparable offers from competitive suppliers and not hampered for example by switching fees.
3. Ensuring that consumers remain fully protected in the new energy market, including against unfair commercial practices.
4. Providing consumers with possibilities to become active energy players and gain from action, for example adjusting and reducing their consumption as prices evolve, helping balance out renewable energy variability by embracing demand response or producing or storing energy.
5. Keeping consumption/metering data under the consumers' control; where consumers grant other parties (suppliers and intermediaries) access to their data, their privacy, the protection and the security of their data must be guaranteed.
6. Providing consumers access to competitive and transparent market-based offers, while giving consumers in vulnerable situations and/or facing energy poverty targeted and effective assistance reflecting best practices and contributing to energy efficiency and savings.
7. Providing consumers the option of participating in the market through reliable intermediaries, collective or community schemes. These intermediaries need to have fair access to the markets and consumption data and be monitored in the same manner as suppliers.
8. Making sure smart home appliances and components are fully interoperable and easy to use and smart metering systems fit for purpose with the recommended functionalities to maximise their benefit to consumers.
9. Ensuring cost-effective and stable network operation; ensuring non-discriminatory handling of metering data with potential commercial value by Distribution System operators or any other responsible entity.
10. Strengthening the link between research, innovation and industry for developing international competitiveness in smart home and smart grid technologies, in cooperation with all market players.

For further information, please contact:

Sigrid Linher, Energy and Environment manager: sigrid.linher@orgalime.org