

# Necessary details for the authorisation and supervision of inside information platforms and registered reporting mechanisms by the European Union Agency for the Cooperation of Energy Regulators

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The Council took note of a **progress report on the work** done so far on a draft regulation on energy market integrity and transparency.

The Hungarian Presidency intends to **progress as much as possible** with the examination of the proposal, in the light of the European Council conclusions of 4 February 2011 in which it is stated that the Council and European Parliament are invited to work towards the early adoption of the Commission's proposal for a Regulation on energy markets integrity and transparency.

While most delegations support the aims of the proposal, a majority of delegations still maintain scrutiny reservations, and one delegation maintains a reservation. Without prejudice to particular points of interest of individual delegations, the following issues appear to be the main issues to be resolved:

**Use of delegated acts:** the Commission proposal foresees the use of delegated acts for two issues: (i) to specify the definitions of "inside information", "market manipulation", "attempt to manipulate the market", "wholesale energy products" and "wholesale energy market" so that they can also cater for future market developments and changes in other EU legislation; (ii) to establish in detail the data collection mechanism for wholesale energy market transactions and orders to trade, and for underlying structural information.

Some delegations oppose the use of delegated acts - arguing that the proposed scope for the delegated acts covers essential elements - while several call for adding as much detail as possible in the draft Regulation (such as clarifications and examples), in order to define as much as possible the scope for the delegated acts.

**Application of the provisions in practice:** many questions and some concerns remain on the functioning in practice of the proposed provisions: this relates to the cooperation between the ACER and national regulatory authorities in market monitoring and in case of suspected breach of the provisions, the practical arrangements for the sharing of relevant information between the ACER, national regulatory authorities, competition authorities and others, and the reporting to be done by market participants or other entities.

For example, among the concerns and requests expressed are the following:

- delegations underlined that the **reporting burden** placed on market participants or entities acting on their behalf **should be minimised**: in this context double reporting should be avoided by taking account of reporting obligations in other legislation;
- a request was voiced for having the possibility to allow individual Member States to "**replace**" a **certain authority** (to which this Regulation attributes tasks) with another entity that would, in view of the existing national situation, be well-placed to carry out particular tasks;

- concern was expressed about the way in which national regulatory authorities should **respond to requests from the ACER**.

In addition to these main issues, several delegations have asked to include provisions relating to the **harmonisation of penalties**. However, some other delegations expressed concerns on this issue on which a public consultation is still underway.