

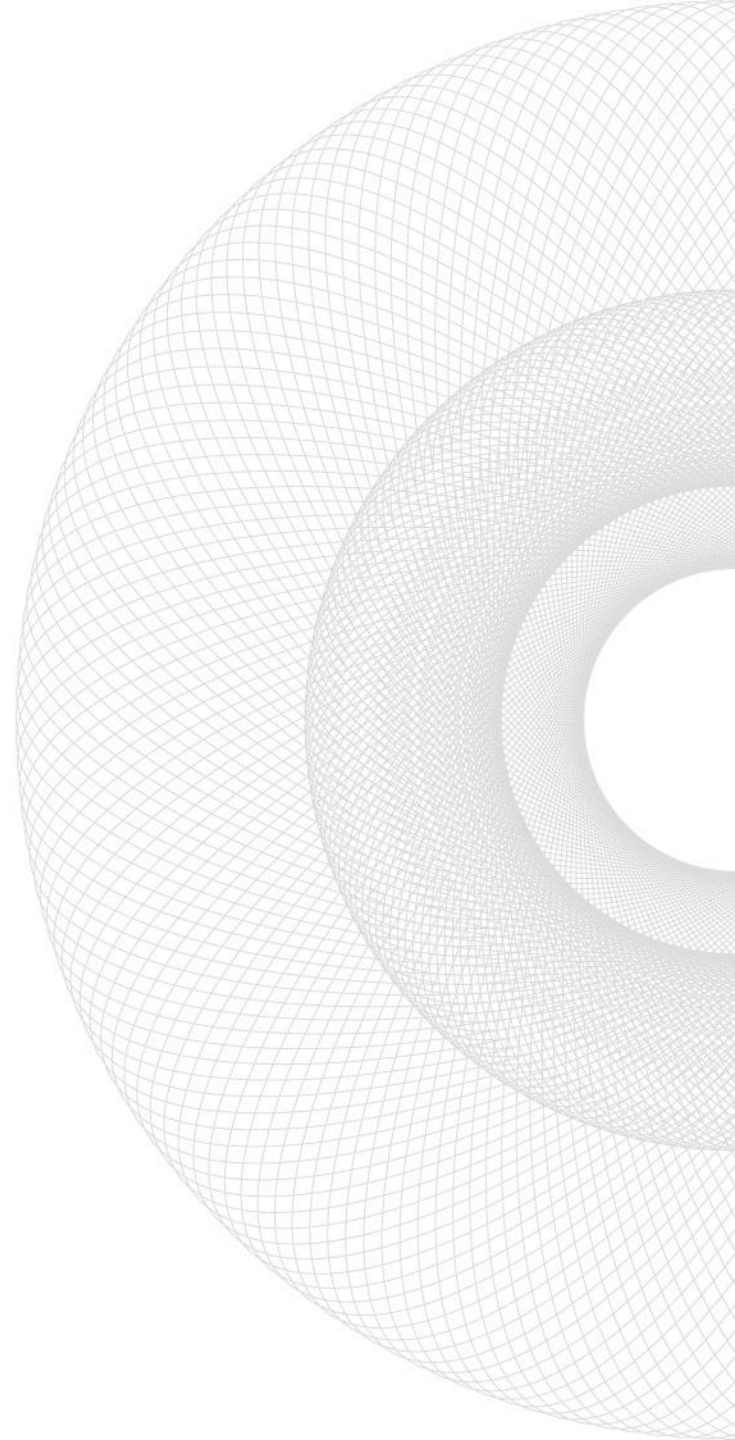
Regulatory implications for your organization in bite-size chunks

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Prague, 15 June 2017

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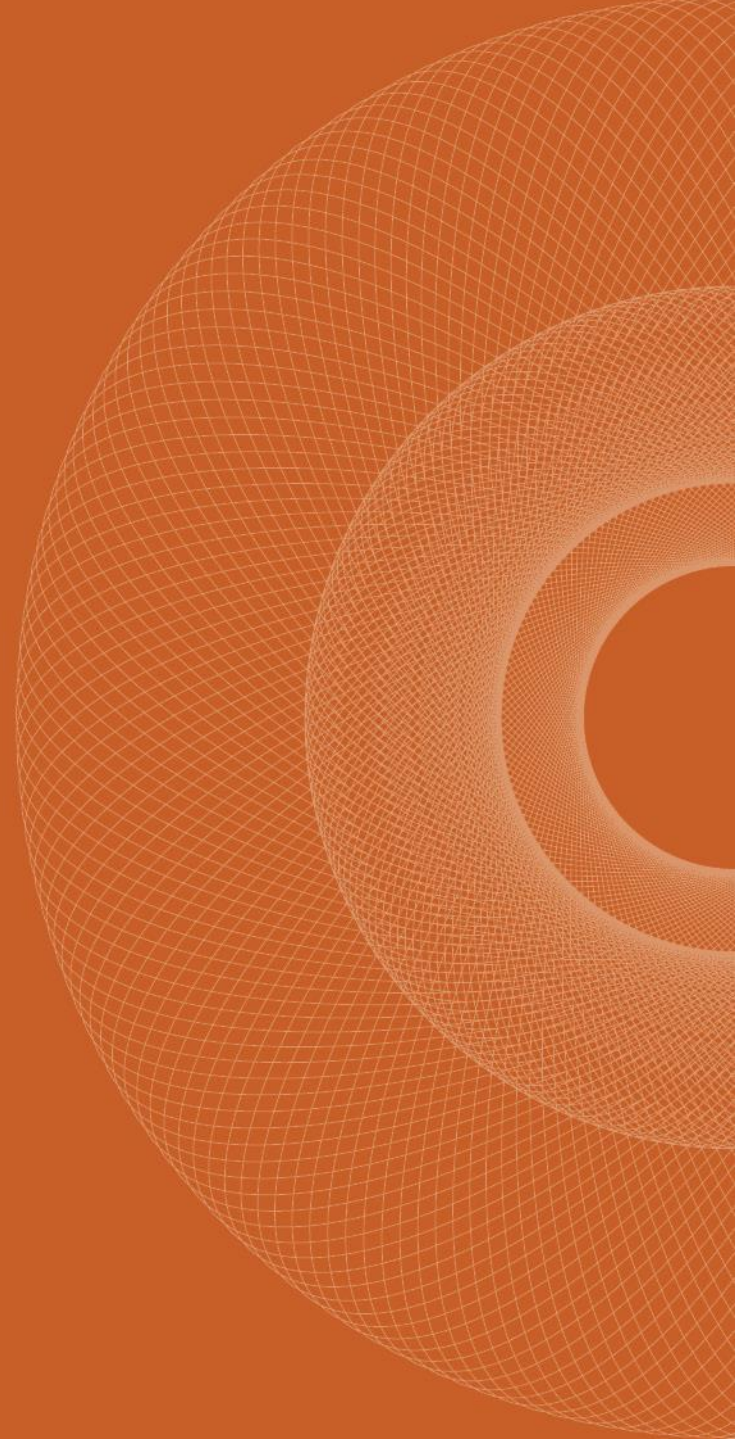


Contents

1. Short introduction to Kinstellar
2. The Clean Energy package for traders:
Why and What is it?
 - a. New electricity market model – impact on trading in CEE/SEE
 - b. New trading related tasks and responsibilities of DSOs and TSOs – how will operators in CEE/SEE react
 - c. Storage matters, also for trading – what will the new regulation be like?
3. Regulatory overview in the gas and electricity for traders in certain non-EU jurisdictions (main focus: Ukraine and market liberalisation)



Short introduction to Kinstellar

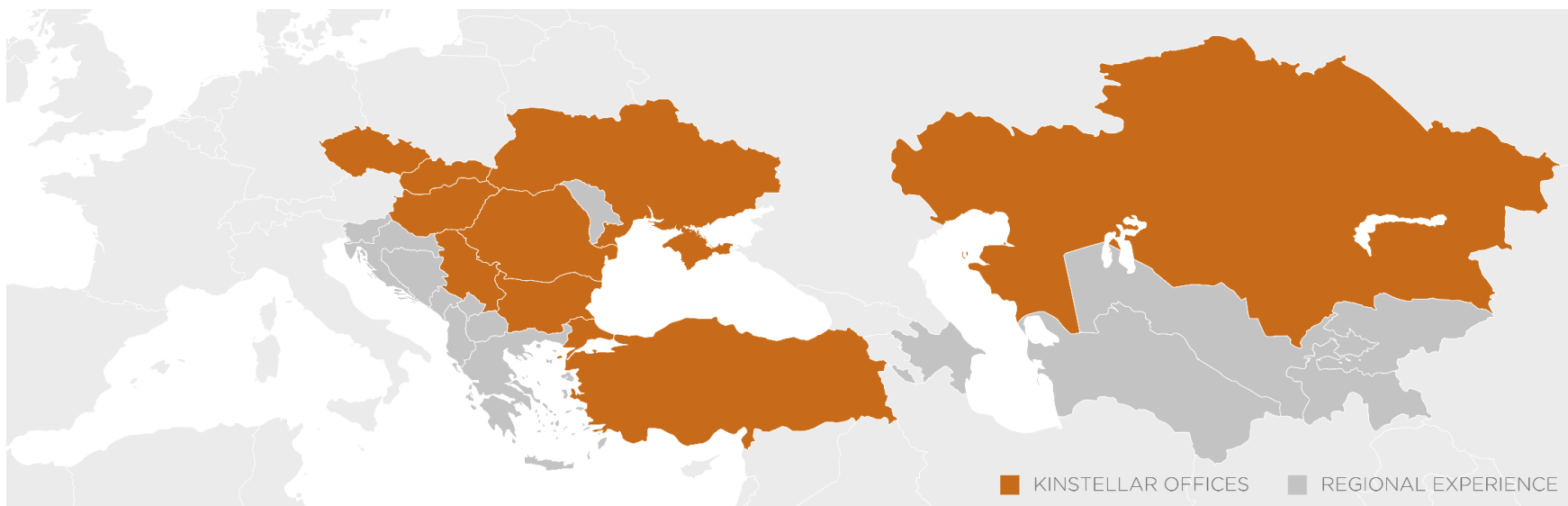


Our Story

Emerging Europe and Central Asia's Leading Independent Law Firm

Kinstellar is a leading independent law firm in Emerging Europe, Turkey and Central Asia, with offices in **Almaty** (Kazakhstan), **Belgrade** (Serbia)*, **Bratislava** (Slovakia), **Bucharest** (Romania), **Budapest** (Hungary), **Istanbul** (Turkey), **Kyiv** (Ukraine), **Prague** (the Czech Republic) and **Sofia** (Bulgaria).

Operating as a single fully integrated firm, Kinstellar delivers consistently high quality services across all jurisdictions in an integrated and seamless style. We are particularly well suited to servicing complex transactions and advisory requirements spanning several jurisdictions.



* Kinstellar advises international and local clients in Serbia in cooperation with Zajednička advokatska kancelarija Marić & Mujezinović.

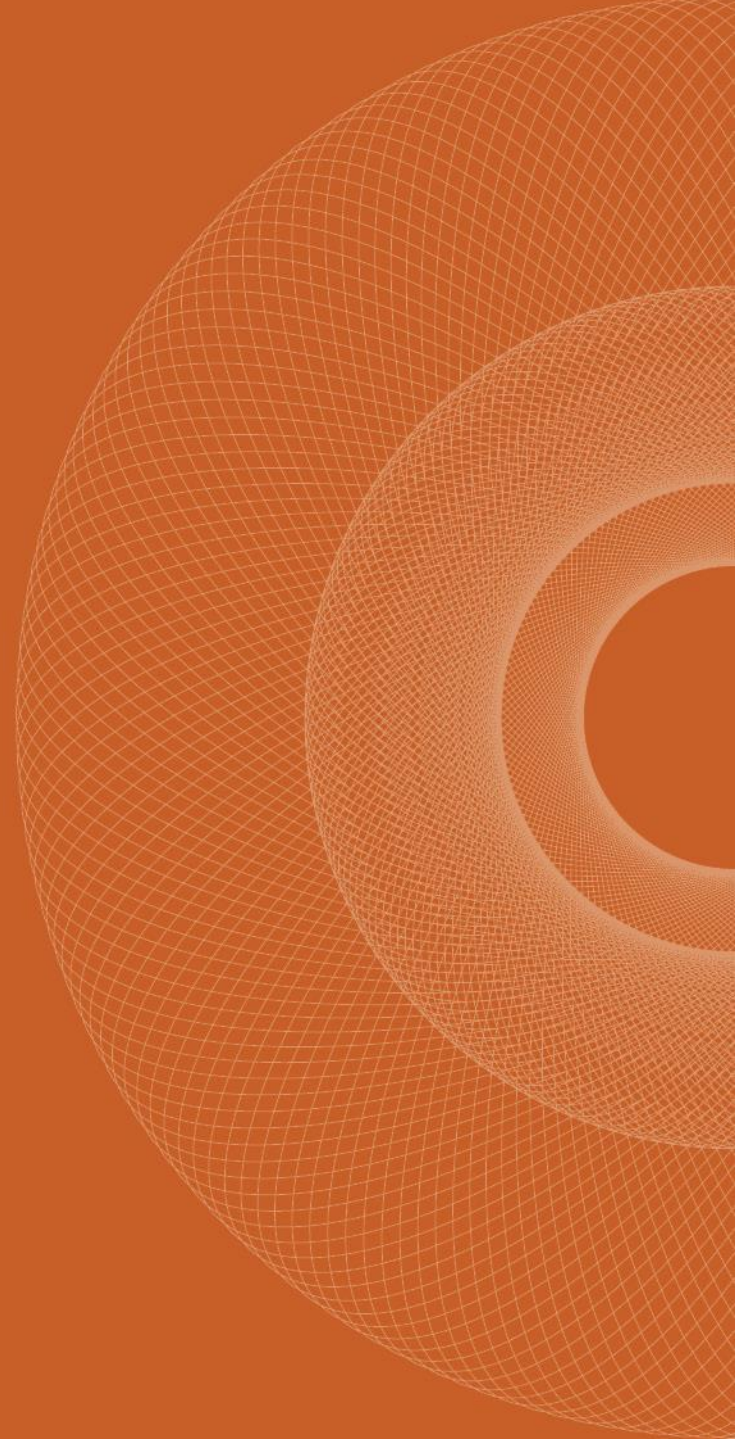
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Sectors and Practices

Our top-tier practices and sectors cover:

Sectors	Practices
▪ Automotive & Industrials	▪ Banking, Finance & Capital Markets
▪ Banks & Financial Institutions	▪ Competition & State Aid
▪ Energy	▪ Compliance, Risk & Sensitive Investigations
▪ Infrastructure	▪ Dispute Resolution
▪ Life Sciences & Healthcare	▪ Employment & Labour Law
▪ Private Equity	▪ Energy
▪ Real Estate	▪ Infrastructure & Projects
▪ Technology, Media & Telecommunications	▪ Intellectual Property
	▪ M&A & Corporate
	▪ Real Estate, Construction & Planning
	▪ Restructuring & Insolvency
	▪ Technology, Media & Telecommunications

Clean Energy Package for Traders: Why and What is it?



Why?

- New business models and complex industrial value chains of products and services
- New players and industries entering the energy and mobility ecosystem
- Different levels of public and private actors – EU, national, regional and local
- The share of electricity generated from renewable energy sources has steeply increased

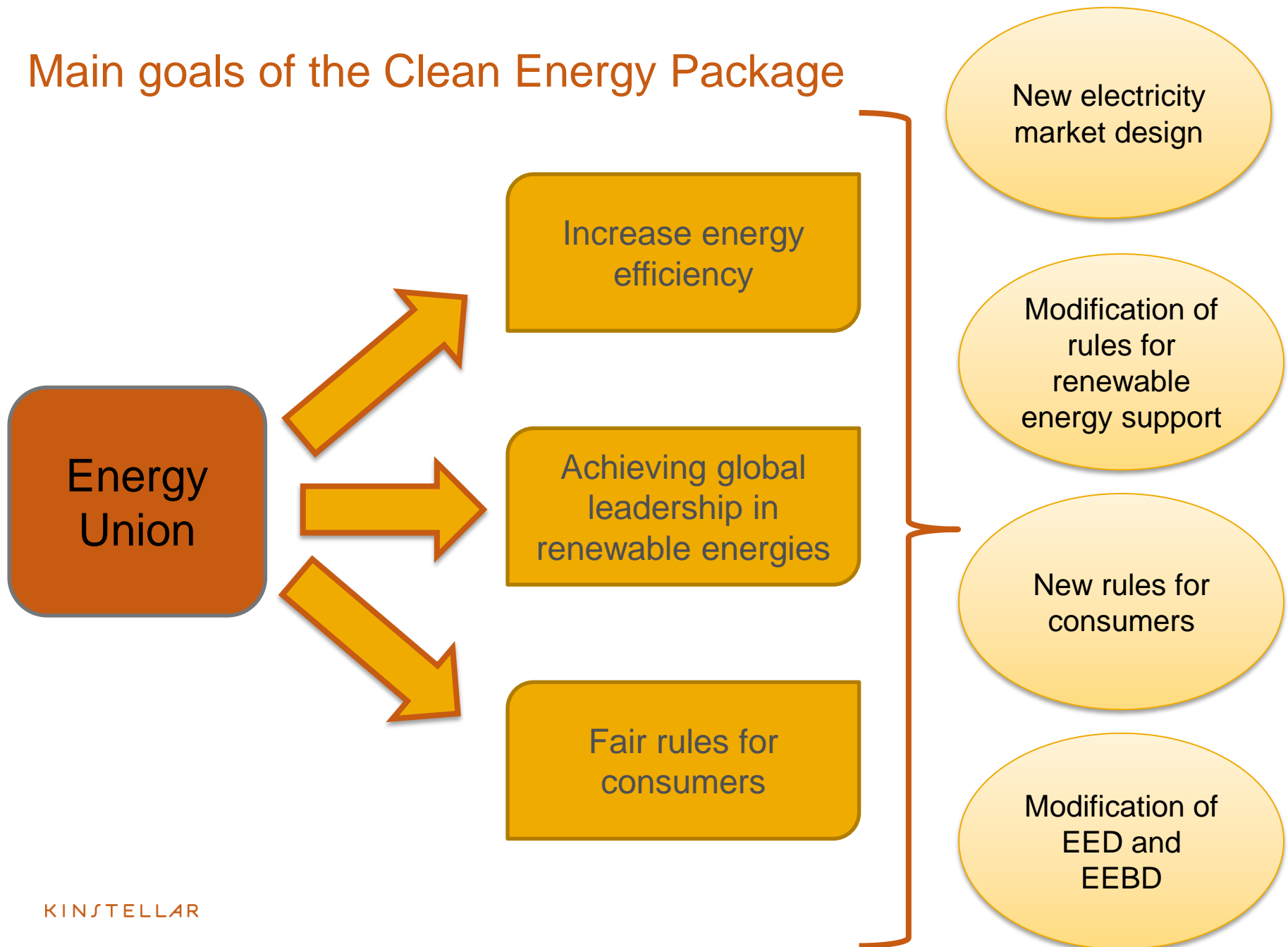
Electricity market of the next decade

More variable and
decentralised electricity
production

Increased interdependence
between Member States

Active participation of
consumers

Main goals of the Clean Energy Package



Key elements of the Clean Energy Package

Commission Communications

- Clean Energy For All Europeans”
- Accelerating Clean Energy Innovation
- Communication from the Commission on the European strategy on Cooperative Intelligent Transport Systems

Proposals for EU Regulations

1. Proposal for a Regulation on the internal market for electricity
2. Proposal for a Regulation on the Governance of the Energy Union
3. Proposal for a Regulation on ACER
4. Proposal on the risk-preparedness in the electricity sector
5. Proposal for a Commission Regulation on ecodesign requirements for energy-related products

Proposals for EU Directives

1. Proposal for a Directive on common rules for the internal market in electricity;
2. Proposal for a Directive on the promotion of use of renewable energy;
3. Proposal for a Directive amending EED Directive
4. Proposal for a Directive amending Directive on the energy performance of building (EPBD)

Commission Reports

- Report of the Sector Inquiry on Capacity Mechanisms
- EC Report on the energy prices and costs
- EC Report on the implementation of the European Energy Program for Recovery and the European Energy Efficiency Fund

Legal aspects of the Clean Energy Package

- Approx. 1,000 pages of legislative proposals and other documents
- New Regulations regarding the new electricity market design and the governance of the Energy Union
- Fourth Energy Package?
- Emphasis on EU Regulations, which are binding and directly applicable in all Member States
- Consolidated modification of Directives
- Timing of entry into force varies
- Legislative procedure has started in 2017 based on the proposals of EC



What the Clean Energy Package covers and what it does not

What the CEP covers

New electricity
market model

New rules on
renewable energy
support

Governance of
the Energy Union

New tasks and
responsibilities of
DSOs and TSOs

Revise and
strengthen
consumers' rights

New rules
regarding
regulated end-
user prices

Modification of
energy efficiency
rules

New rules on risk-
preparedness in
the electricity
market

Not covered elements

New natural gas
market design

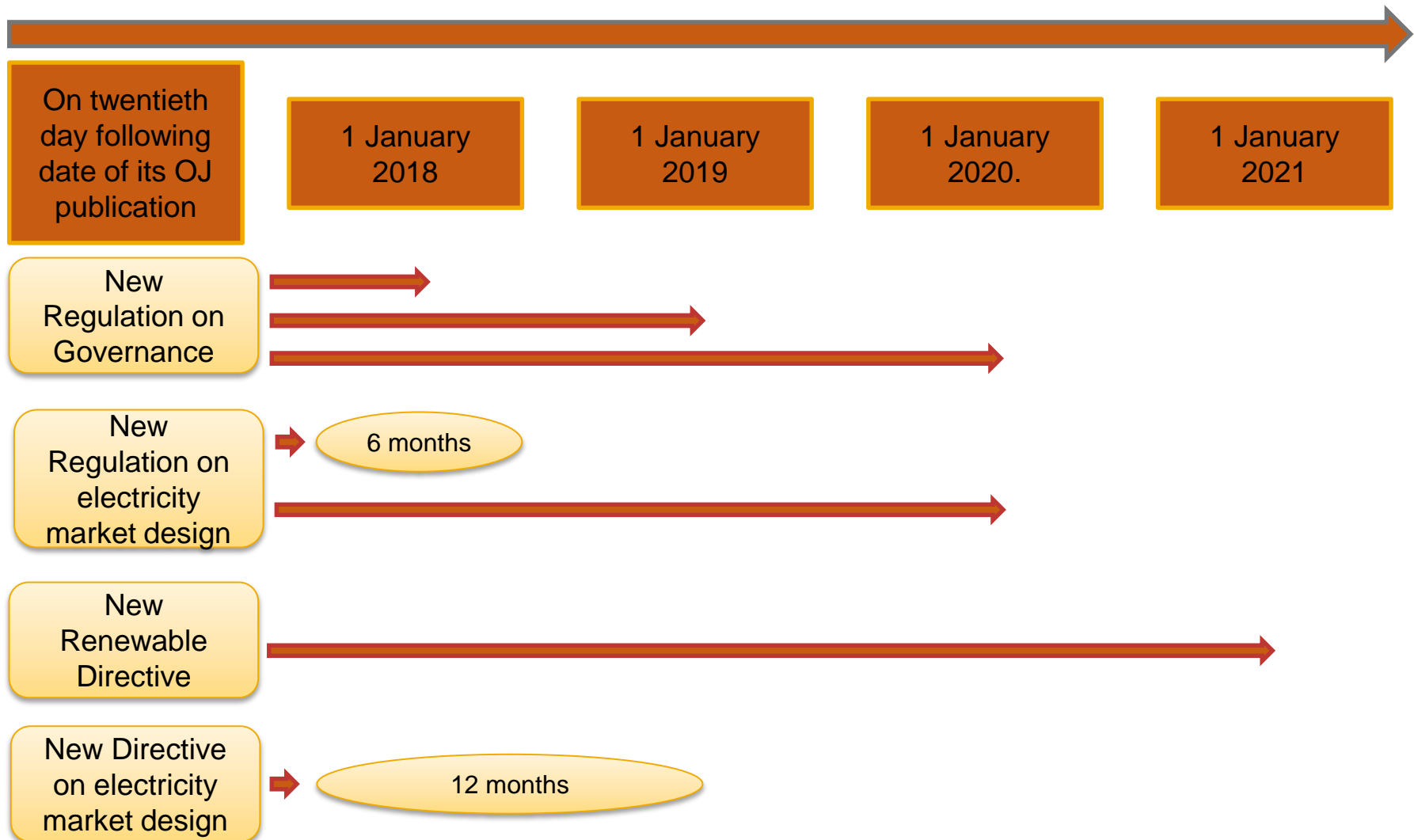
New rules on district
heating at EU-level

Revised
consumers rights
(natural gas
market)

Reconsideration of
price regulation in
the natural gas
market

Modification of
tasks and
responsibilities of
TSOs and DSOs
operating in the
natural gas market

Planned data of entry into force of the proposals

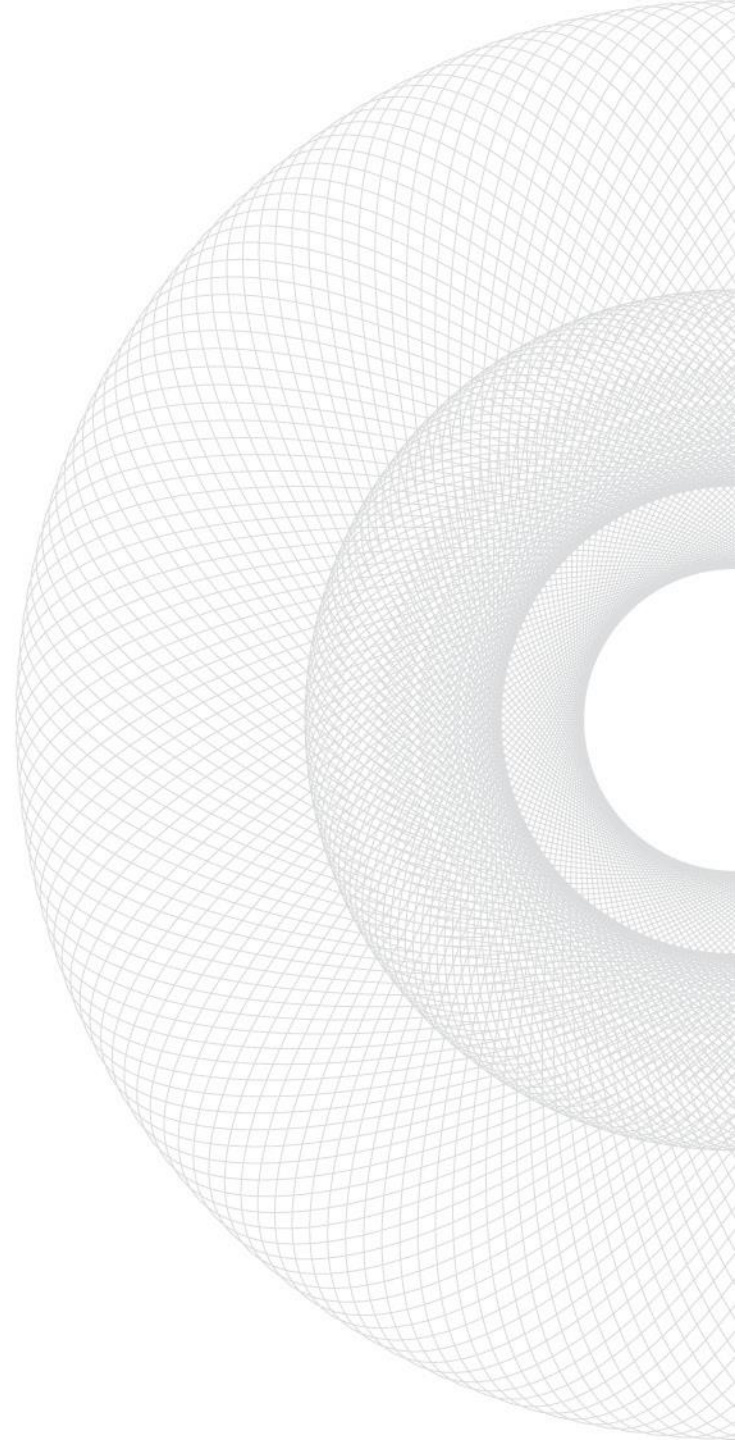


CEP elements relevant for traders

- New electricity market design
- Changing role of the current market players and new actors in the market
- New roles for DSOs and TSOs
- Regulation of energy storage



New electricity market model – impact on trading in CEE/SEE



Main rules for electricity trading are related to...

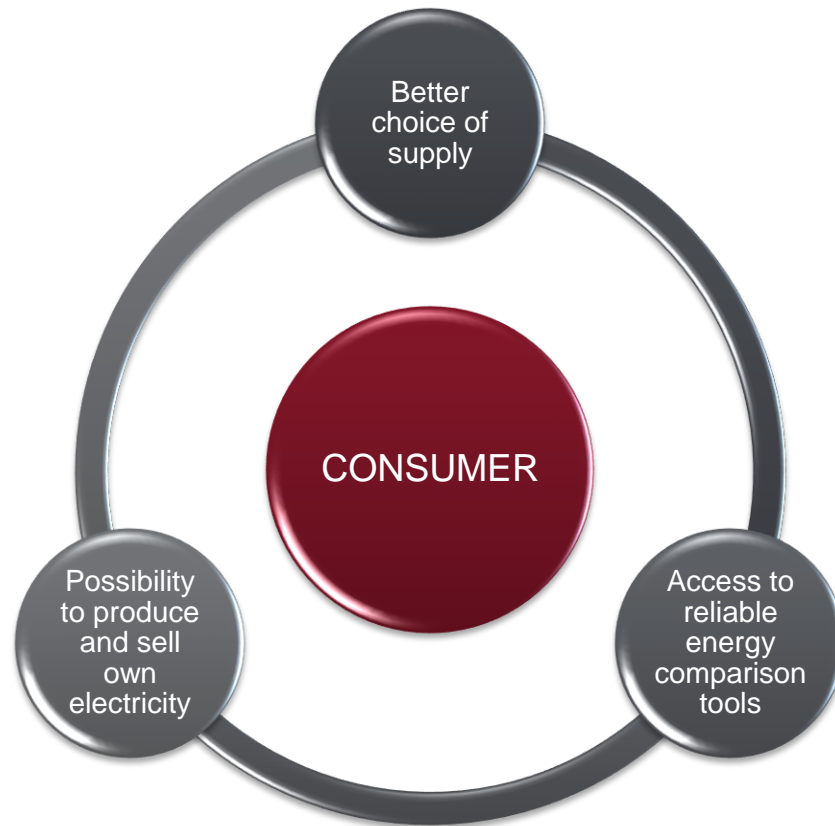
REVISED ELECTRICITY DIRECTIVE

- transparency
- removing price caps
- data management
- electricity supply contracts

REVISED ELECTRICITY REGULATION

- wholesale electricity prices
- network codes and guidelines of the European Commission

Fair deal to consumers



Electricity supply contracts – to the satisfaction of the client

REVISED ELECTRICITY DIRECTIVE

Dynamic electricity prices

Are linked to the electricity prices at the spot market

Should be offered always upon a final customer's request after fully informing the customer of the opportunities and the risks

Facilitating supplier switch

No switching-related fees are allowed to be charged

Early termination may be permitted by the State subject to strict requirements, including as to the maximum amount

Billing information

Bills should meet content and format requirements

Toward even more transparent activities through *comparison tools*

REVISED ELECTRICITY DIRECTIVE

Comparison tools:

- will be certified neutral platforms for **comparing offers of electricity suppliers**
- should be accessible by customers
- must provide trustworthy, impartial and transparent information



Spreading of false or misleading information or rumours **may constitute an infringement of REMIT!**

Data management – opportunities and obligations

REVISED ELECTRICITY DIRECTIVE

- New rules for access to and exchange of the consumer's metering and consumption data and the data for consumer switching will be required from the Member States
- National or an European data format and procedure?



The data management obligations are **without prejudice to** the obligations for and in relation to cyber security, data privacy and transparency *in...*



Prices of electricity supply – caps, NO CAPS

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Electricity supply prices must be market-based.

Transitional prices may be established only:

- for a **maximum period of 5 years** for energy poor or vulnerable household customers
- **after the 5th year** - for vulnerable household customers if it is strictly necessary and for reasons of extreme urgency and subject to notification to the European Commission

REVISED ELECTRICITY REGULATION

Neither max. nor min. limits of the wholesale electricity prices (*including balance energy and imbalance prices*) are allowed.

Exceptions:

Maximum limits may be set:

- at the Value of the Lost Load
- on the clearing prices (by the market operators)

Minimum limits may be set:

- at \leq minus EUR 2,000 (per MWh)

... and more rules - *network codes and guidelines*

REVISED ELECTRICITY REGULATION

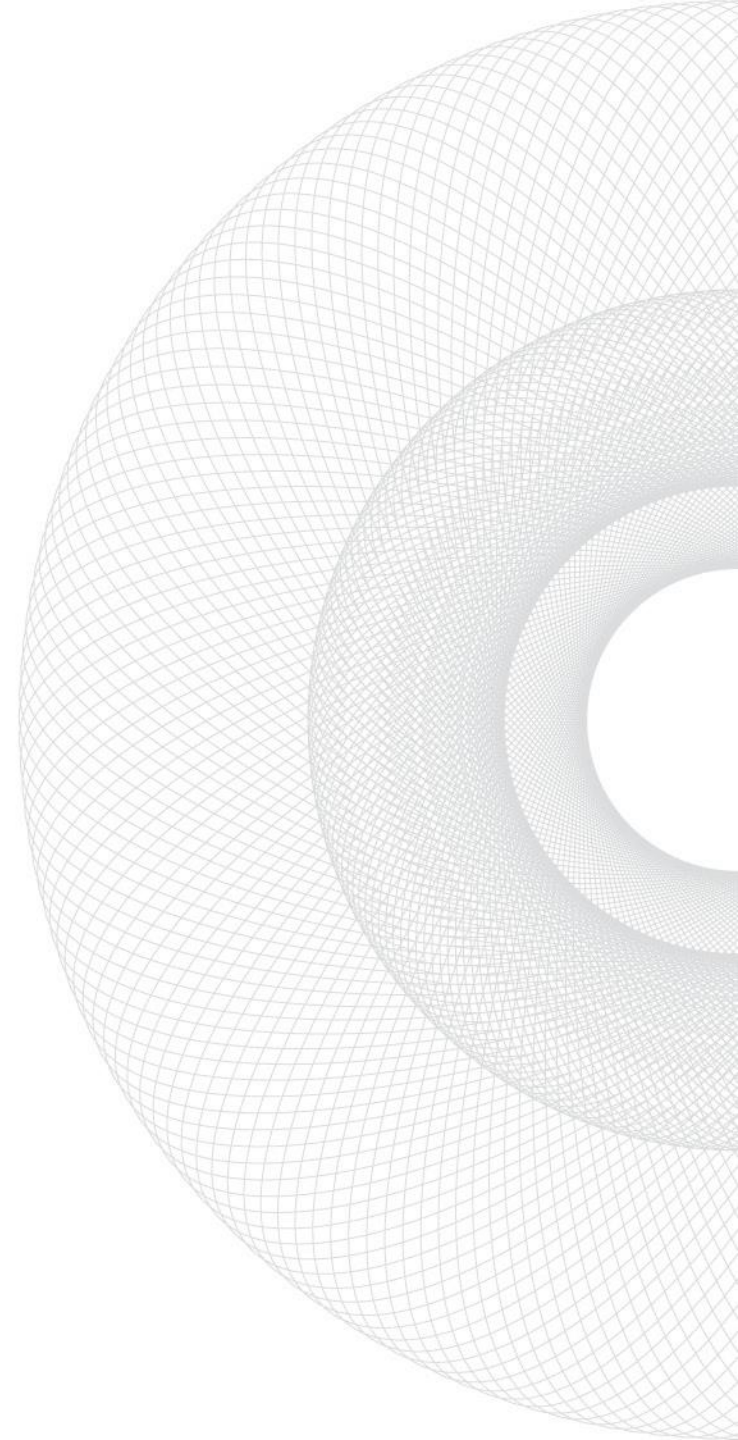
- The European Commission is empowered to establish network codes including in the following areas:
 - data exchange and settlement rules
 - balancing rules including network-related reserve power rules
- The European Commission may adopt guidelines that *may include details of rules for the trading of electricity*



The infringements of the network codes and guidelines will be subject to penalties

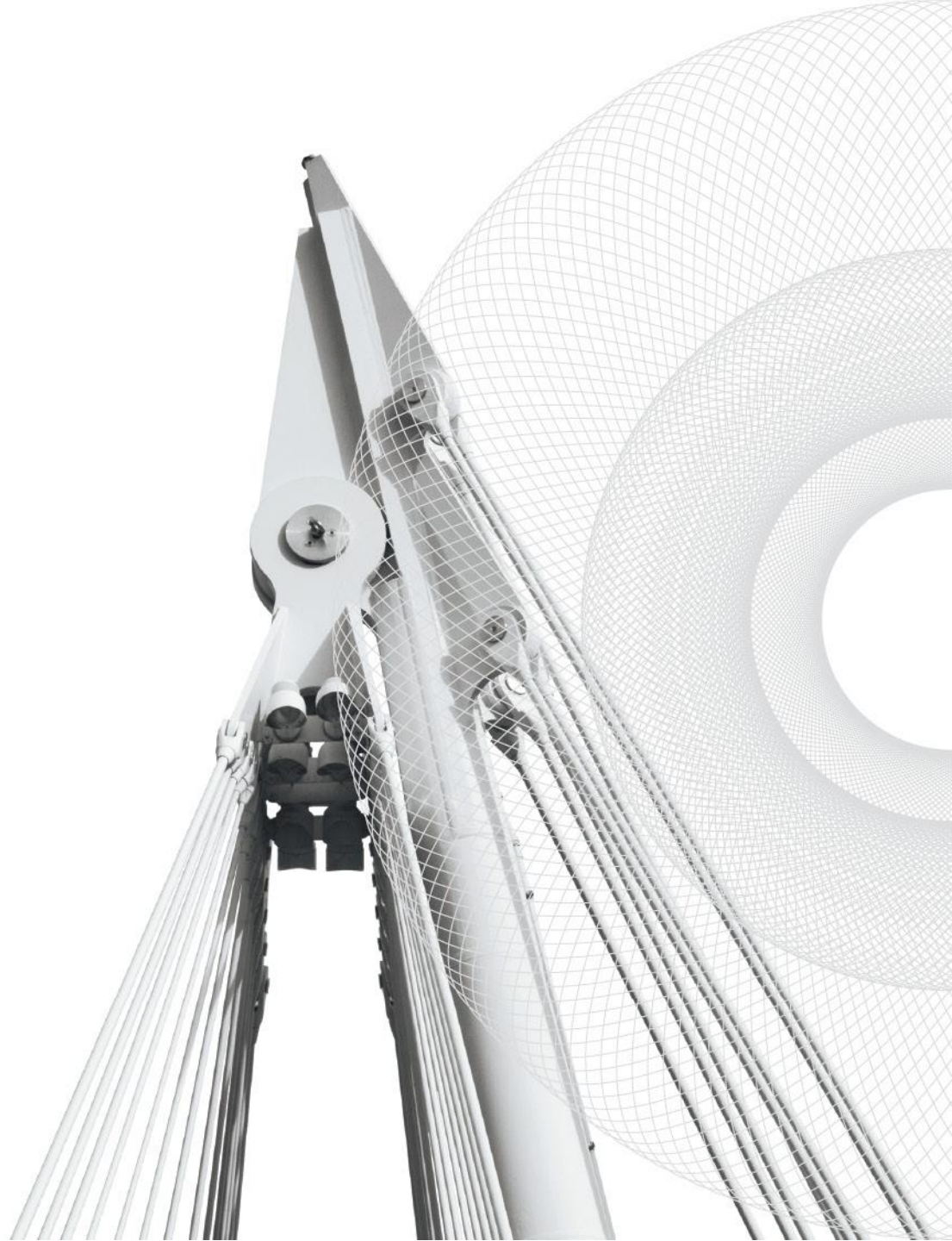


New trading related tasks and responsibilities of DSOs and TSOs – how will operators in CEE/SEE react



New tasks for DSOs

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New tasks and responsibilities for DSOs

- Tasks of DSOs in the use of flexibility
 - MS to provide regulatory framework to allow and incentivise DSOs to procure services for the improvement of efficiencies in operation and development of distribution systems
 - DSOs to define standardised market products for such services and to exchange information with TSOs
- Integration of electro-mobility
 - DSOs will be assigned a role in the integration of electro-mobility into the electricity network
- Data management by DSOs
 - MS to ensure all eligible parties have non-discriminatory access to data
 - Clear and equal terms
- Distribution tariffs
 - Distribution tariffs must reflect the cost of use of the distribution system by system users, including so-called “active consumers”
- Introduction of a European entity for DSOs as a platform for co-operation between DSOs

Data management

- Access to data of final customers: final customer's explicit consent is required
- Relevant data: metering data, consumption data, data required for consumer switching
- EC define common data format, which will replace the former national template
- Parties responsible for data management shall ensure access to final customer's data
 - Eligible parties: another consumers, traders, suppliers, TSOs, DSOs, aggregators, energy service providers
 - MSs can determine details of access – but relevant provisions will be defined by EC
 - Access to data shall be simultaneously for all eligible parties, free of charges for final customers, whilst other parties pay for this service
 - Access to data shall be easy, procedure shall be made publicly available
- Parties responsible for data management
 - Verification process carried out by MSs or by designated authorities
 - Appointment of a compliance officer to ensure non-discriminatory access to data and compliance with the requirements (optional)

Network tariffs

- **Network tariffs** (for access to the distribution and transmission networks, including changes for connection to and use of the networks)



EU DSO entity – overview

- DSOs which are not part of a vertically integrated undertaking or which are unbundled shall cooperate at EU level → Counterpart to ENTSO-E

To raise efficiencies in the electricity distribution networks in the Union

To promote a coordinated operation of distribution and transmission systems

Completion of the internal market

- DSOs - key enablers of EU goals
- Costs

Main tasks of the EU DSO entity

Coordinated operation and planning of transmission and distribution networks

Integration of renewable energy resources, distributed generation and other resources embedded in the distribution network such as energy storage

Development of demand response

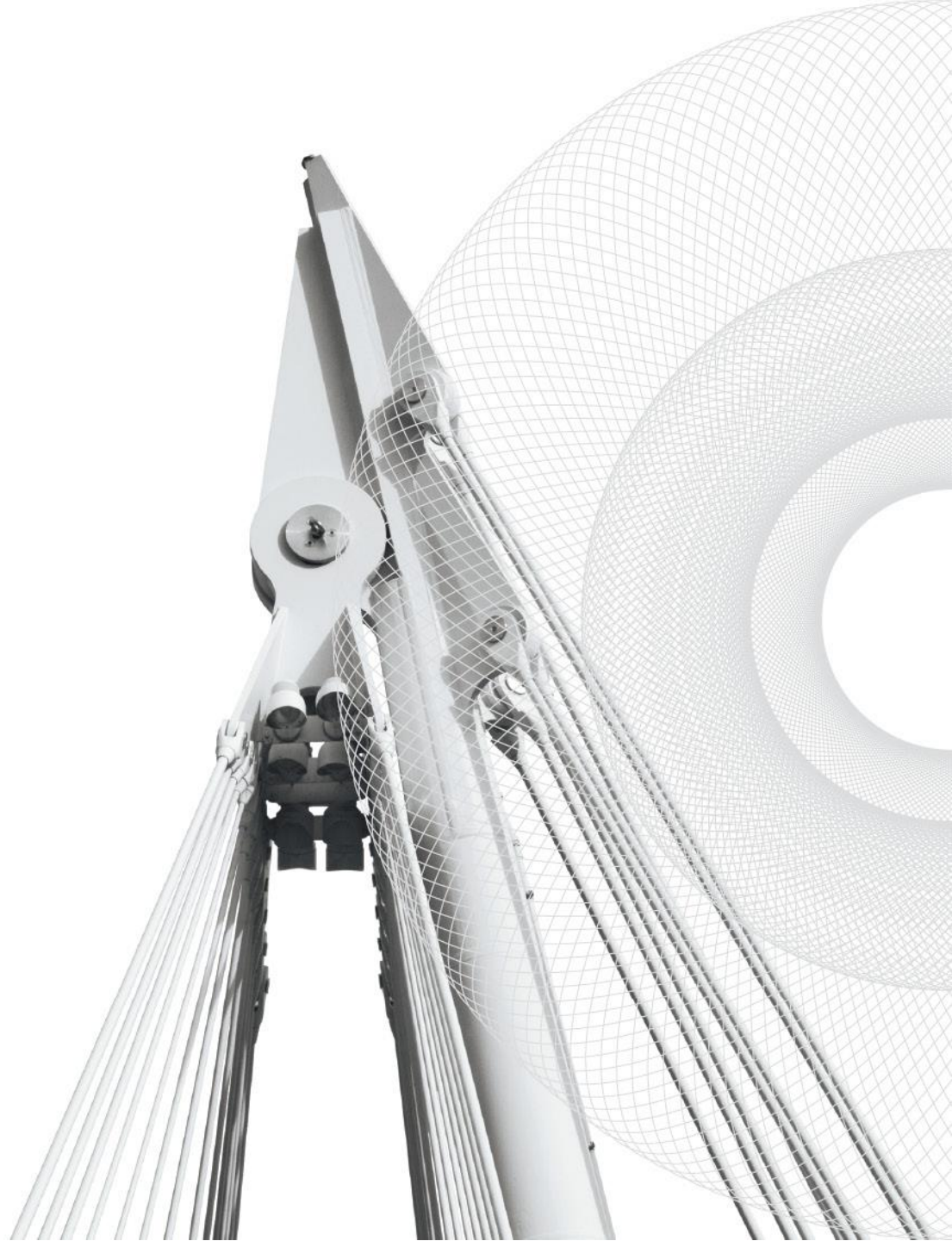
Digitalisation of distribution networks including deployment of smart grids and intelligent metering systems

Data management, cyber security and data protection

Participation in the elaboration of network codes

New tasks for TSOs

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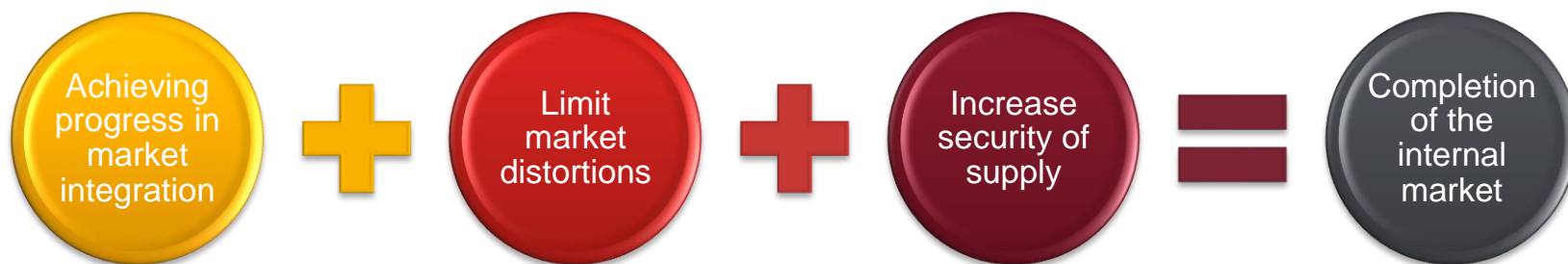
New tasks and responsibilities for TSOs

- Existing provisions are largely maintained, with clarifications concerning energy storage, ancillary services and the new regional co-ordination centres
 - TSOs will also perform tasks relating to the procurement of (balancing and nonfrequency) ancillary services from market participants to ensure operational security in a way that is transparent, nondiscriminatory and market-based, to ensure effective participation of all market participants
 - At least every two years TSOs shall submit a ten-year network development plan previously, every year)
 - In principle, TSO will not be allowed to own, manage or operate energy storage facilities and to own assets providing ancillary services – but derogation possible
 - Introduction of regional operational centres consisting of TSOs



Regional operational centres (ROC) - Overview (1)

- Commission: Examples in the past have shown that regional cooperation can improve market functioning and reduce costs significantly. However, not sufficient in long-term
- Purpose of ROCs:



- All TSOs shall establish regional operational centres (ROC)
- One ROC is in charge of one system operation region
 - ENTSO-E shall submit a proposal to ACER defining these various system operation regions within six months after Electricity Regulation has come into force
 - The proposal needs to be approved by ACER within three months
- ROCs shall complement the role of TSOs by performing functions of regional relevance

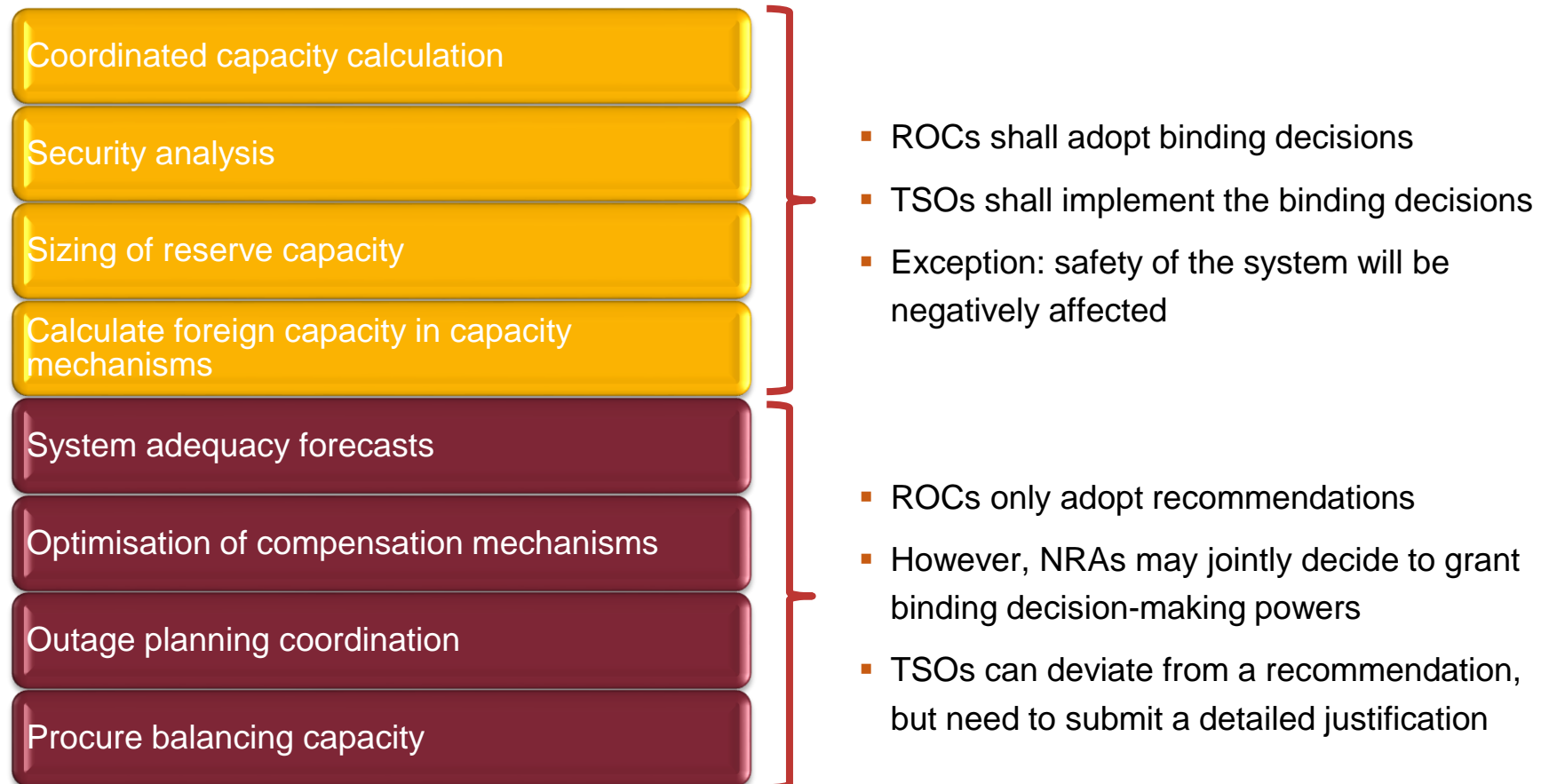
ROC – Overview (2)

- ROCs shall take the form of stock companies or limited liability companies
- ROCs shall be managed in „cooperative decision-making“ based on



- ROCs to establish management board in charge of structure, rules of procedure and budget, composed of TSO representatives and non-voting observers from NRAs
- ROCs to be fully equipped with sufficient resources (human, financial, technical) and to take liability insurance
- ROCs to regularly report to ACER, NRAs and ENTSO-E

Tasks & measures of ROCs



Feedback from stakeholders

- It is doubtful that welfare gains will be achieved since objectives of ROCs can also be reached on a voluntary basis e.g. CORESO, TSCNET
- ROCs are an additional layer of bureaucracy and not required at all – disproportionate
- Difficult delineation of competences as result of double structure leads to conflicting responsibilities. Corresponding powers of NRAs and MS to be strengthened
- Will there be a gap between ROCs and TSOs?
- Security of supply can be better dealt with at national level
- NRA role on board of ROC is questionable with regards to principles of good governance
- German Parliament submitted an opinion stating that the draft does not comply with the principle of subsidiarity (Art. 12 lit. b TFEU)

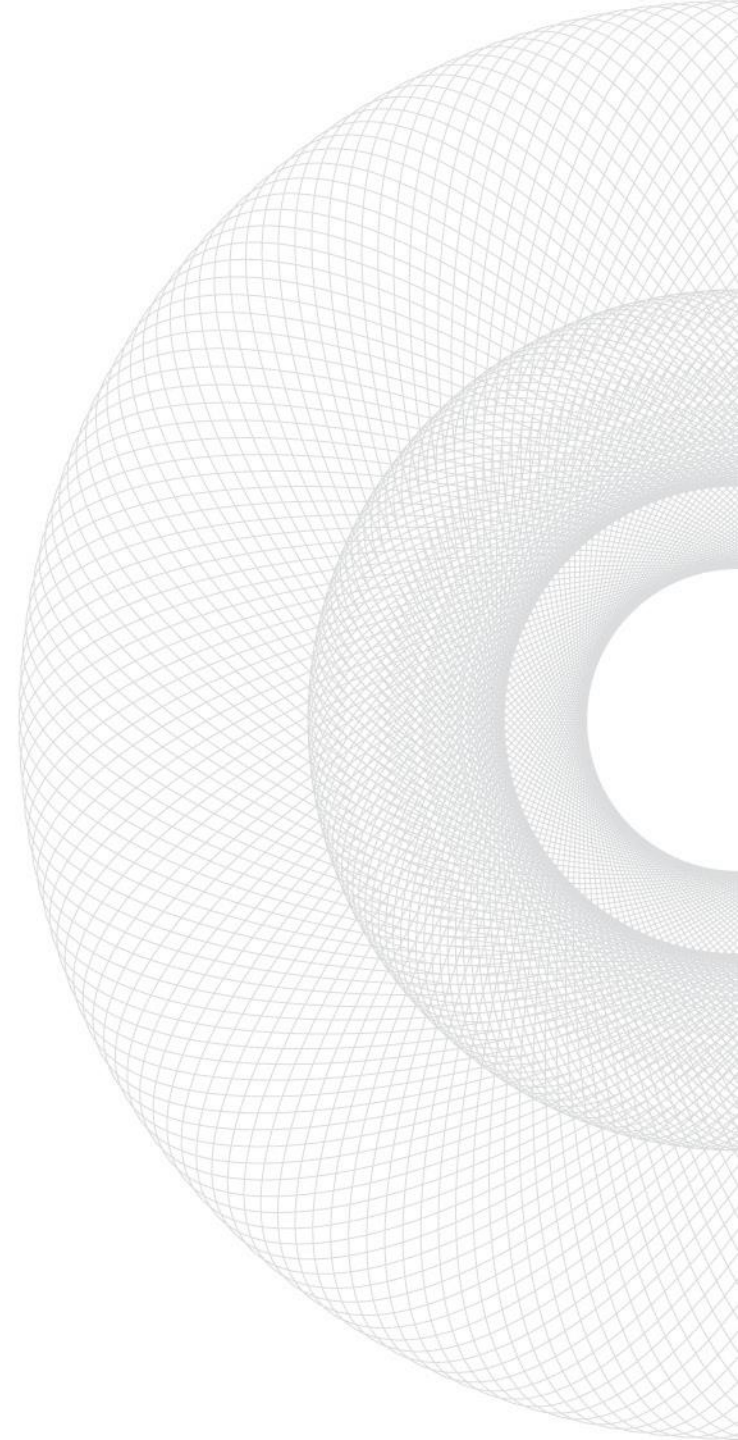


Other rules

- **Congestion** must be solved with non-transaction based methods (i.e., not involving a selection between market participants) – capacity must be allocated through explicit auctioning or implicit auctioning, including both energy and capacity
- Prohibition for TSOs to limit the volume of **interconnection capacity** to be allocated in order to solve congestion inside their own control area or as a means of managing flows on a border
- MS can introduce **capacity mechanisms**, provided they are justified by a resource adequacy concern documented in a European resource adequacy assessment conducted on the basis of a shared methodology established through ENTSO-E and ACER
- Capacity mechanism + resource adequacy measures harmonised with common security analyses



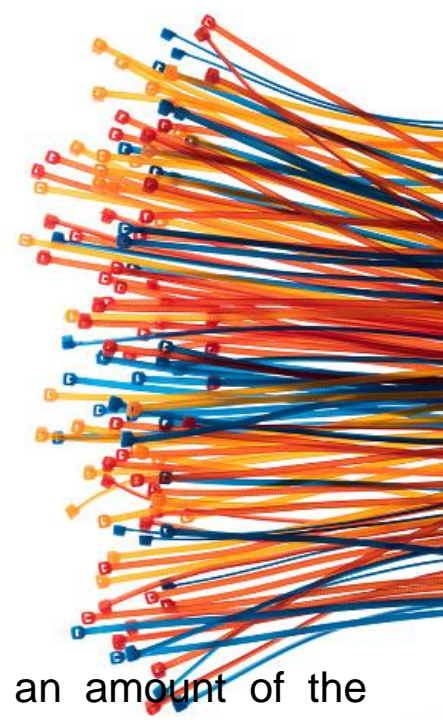
Storage matters, also for trading –
what will the new regulation be like?



Energy storage operators

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- **Energy storage:** a new category in the electricity value chain
- **Main rules - definition**
 - 'energy storage' means, in the electricity system, deferring an amount of the electricity that was generated to the moment of use, either as final energy or converted into another energy carrier
- **Additional rules**, in the form of mandatory network codes, may be adopted by the European Commission (*Revised Electricity Regulation*)
- **Ownership of the energy storage facilities**
- **Energy storage services:** *grid support* (including through participation in the balancing market and in capacity mechanisms); *generation support*; *consumer support*



Ownership of the energy storage facilities - DSOs

- DSOs will not be allowed to develop charging and storage solutions, unless certain conditions are fulfilled, including
 - (i) lack of interest by other parties,
 - (ii) the use being limited to securing the efficient, reliable and secure operation of the distribution system,
 - (iii) approval by the national energy regulator and
 - (iv) compliance with the unbundling provisions
- The potential interest of other market participants is reassessed at least every 5 years.

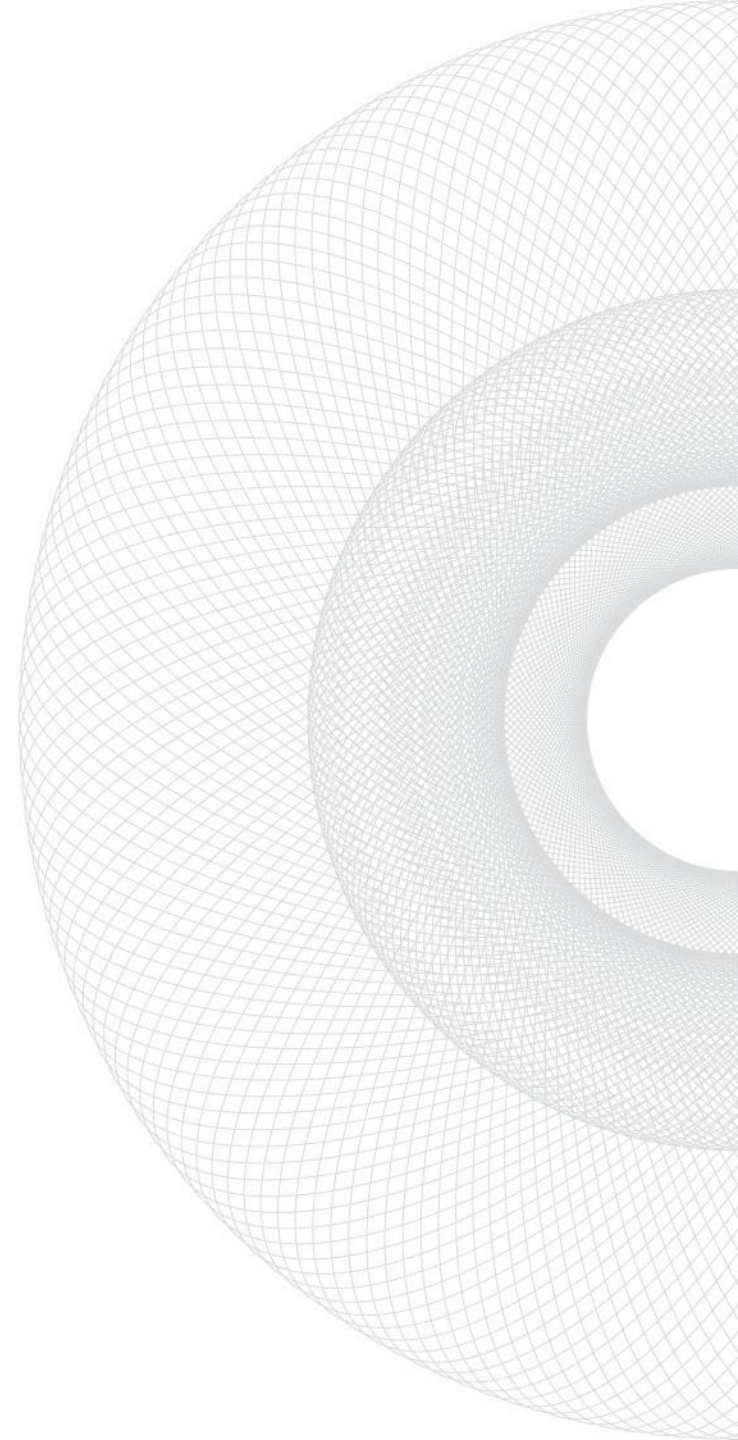


Ownership of the energy storage facilities - TSOs

- TSOs will not be allowed to own, manage or operate storage facilities, nor own or control assets providing ancillary services, unless certain conditions are fulfilled, including
 - (i) (for ancillary services) the ancillary services being non-frequency,
 - (ii) lack of interest by other parties,
 - (iii) the use being limited to securing the efficient, reliable and secure operation of the transmission system and excluding the sale of electricity on the market and
 - (iv) approval by the national energy regulator. Decisions to grant a derogation must be notified to ACER and the Commission.
- The potential interest of other market participants in storage is reassessed at least every 5 years.



Changing roles of the current market players and new actors in the market



Changing roles of the current market players and new actors in the market

Market players with changing tasks and responsibilities

ACER

ENTSO-E

DSOs

Customers

New market players

Regional Operational
Centres (ROC)

DSO-E

Aggregators

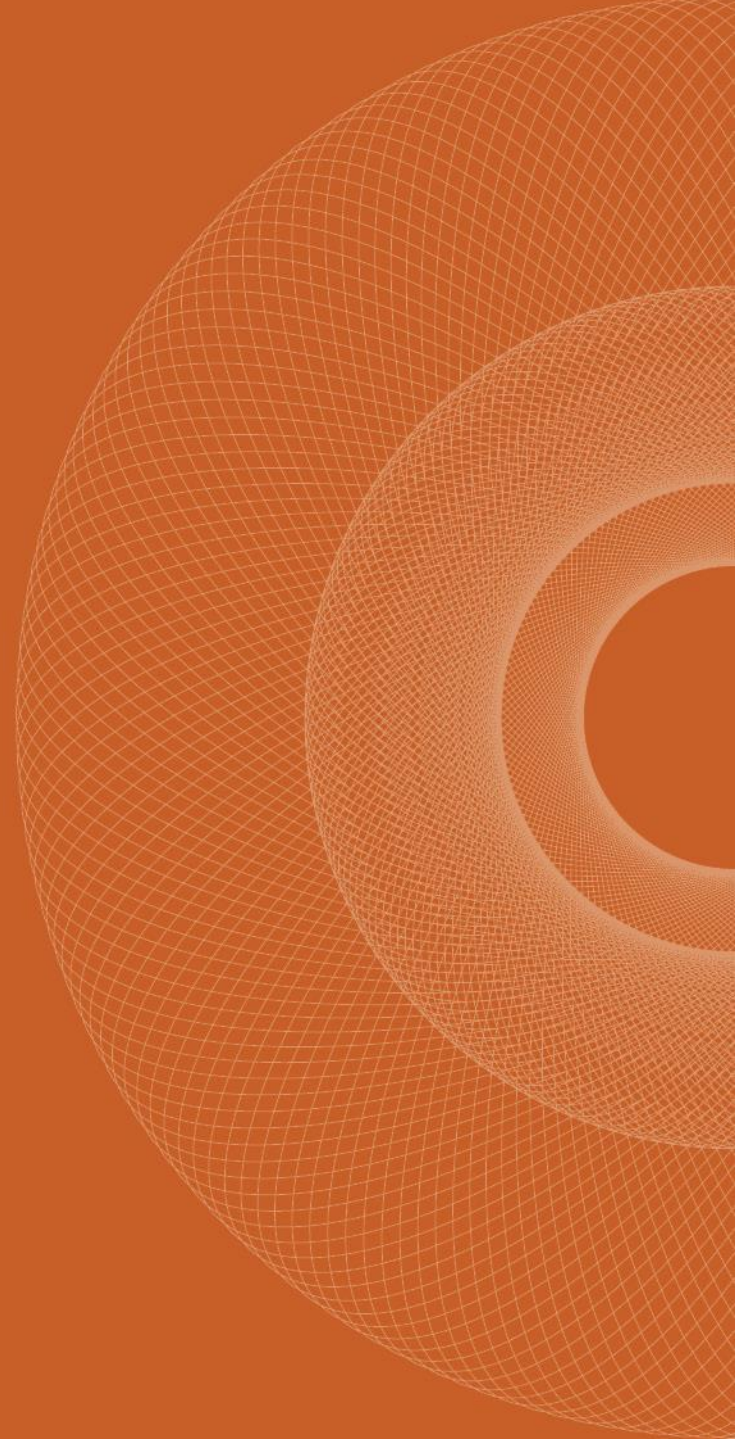
Local energy
communities

Storage operators

New tasks of ENTSO-E and ACER and ROC as a new actor

ENTSO-E	ACER	ROC
Methodology for „long-term” resource adequacy assessment, assesment of „long-term” resource adequacy at Union level	Approval of the common methodology on assessment of resource adequacy	Define maximum entry capacity available to cross-border trade (capacity mechanisms)
Methodology for short-term (seasonal, week-ahead) adequacy assessment, carry out seasonal adequacy outlook (may delegate tasks to ROC)	Approval of the common methodology for short-term adequacy assessment	Issue binding decisions on TSOs (e.g.coordinated capacity calculation, regional sizing of reserve capacity)
Methodology for identifying electricity crisis scenarios in a regional context	Approval of the common methodology for identifying electricity crisis scenarios at a regional level	Issue recommendations to TSOs (e.g.common system models)
Identification of electriciy crisis scenarios at a regional level (may delegate tasks to ROC)		Carry out short-term (week-ahead to intraday) adequacy assessments
ENTSO-E may delegate further tasks to ROC	Control of ROCs, approval of proposals defining operation regions	National Regulatory Authorities (NRA) may grant further binding decision-making power to ROCs

Regulatory overview in the gas and electricity for traders in certain non-EU jurisdictions (main focus: Ukraine and market liberalisation)



Ukraine: electricity market liberalization

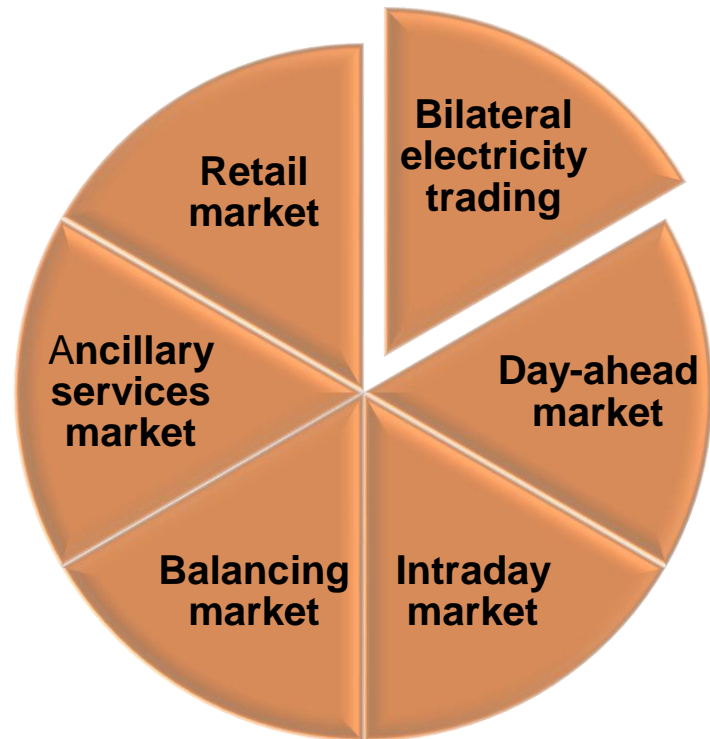
Electricity Market Law signed on 08 June 2017

Market liberalization instead of the single-buyer model

New market participants: traders - resale of electricity, not allowed to supply to end consumers.

Regulated prices:

- ✓ *the universal services suppliers* (supply to households and small businesses);
- ✓ *the “last resort” suppliers*



Ukraine: Integration of IPS with ENTSO-E

	Currently	1-2 years	5 years	10 years
Technological capability to integrate with ENTSO-E	15%	50%	99%	100%
Integration level into ENTSO-E	10% (Burshtyn island)	10%	100%	100%
Technically possible capacity of power exchange between Ukraine and ENTSO-E	885 MW	885 MG	2200 MW	4000 MW

Source: Ukrenergo

Agreement on Accession of Ukraine's IPS to ENTSO-E to be signed on 28 June 2017

Ukraine: further gas market liberalization



TSO unbundling: pending

Deregulated prices for industrial consumers

PSO obligation of Naftogaz, all gas produced by Naftogaz is sold to private consumers

Export quotas lifted for 2017; licensing requirement abolished

Retail market and supply to DHC to be opened

Customs warehouse as a step to an Eastern European hub

Since 1 June 2017 TSO obtained permit to open and operate **CUSTOMS WAREHOUSE**

WHERE: 10 underground gas storages – 14 bcm

HOW LONG: up to 1095 days

HOW MUCH: approx. EURO 0.4 per MW per storage cycle

PREVIOUSLY: transit regime for 31 days

MEMORANDUM between Snam, Eustream, Naftogaz and Ukrainian TSO to develop the GTS and cooperate

STEPS TO BE TAKEN:

- Digital platform to organise and administer trading, incl. based on EU balancing rules (by the end of 2017)
- Changes to legislation
- Technical measures

Thank you for your attention

