EFET
European Federation
of Energy Traders

EFET views on the gas market interventions package (Proposal for a Council Regulation Enhancing solidarity through better coordination of gas purchases, exchanges of gas across borders and reliable price benchmarks)

Europe is going through a very challenging period. The sudden and unexpected supply cut by Russia combined with other shortages, such as unavailability of nuclear power generation plants, have led to extreme price movements as the industry struggles to adjust. Increased LNG supply has plugged most of the gap, with further increases expected in the next years as already committed investment becomes available. New gas transportation routes have developed and new locations of congestion have been revealed, that must now be relieved. While the industry grapples with these changes, there remains a shortage of gas, leading to high prices. These prices send a strong signal to encourage demand reduction and investment in new supply and infrastructure.

Key messages:

- The urgent problem that must be addressed is a **physical shortage of gas**. Improving access to existing LNG and transportation capacity and targeted investment will help to import and distribute some more gas. Once this option is exhausted, demand reduction will be necessary to keep systems balanced in the short-term.

- **Targeted financial support to consumers in need remains the best option to alleviate the financial burden.** EFET is extremely concerned by the proposed intervention of a *gas market correction mechanism* in the way the Title Transfer Facility (TTF) is priced:
    - Artificially limiting the TTF price would have significant consequences for supply-demand (increasing gas demand and reducing incentives to use less) that could actually make the current issues worse.
    - The measure could trigger disputes in contracts that refer to TTF – which could potentially result in further supply constraints.
    - The TTF is the most competitive and most used trading hub in Europe. The measure would reduce transparency and the availability of reliable price signals which are necessary to hedge risk.
- A voluntary joint purchasing mechanism may improve access to supplies for some potential buyers. Demand aggregation and joint purchasing are already possible. However, related agreements can be complex and **purchasing must remain voluntary to avoid becoming a barrier to contracting.**

EFET recognises the need to ease the economic burden of high prices on consumers. However, some of the proposed measures including price caps and interventions in the contracting process will reduce supply availability and will increase costs in other ways. EFET is happy to work with the authorities to help design workable solutions.

Comments on the proposed measures

Addressing the energy shortage (Explanatory Memorandum):

- EFET recognises the urgency of addressing the physical shortage of energy in Europe. However, we remain of the opinion that *purchasing equivalent volumes* to the missing pipeline gas supplies will simply not be possible in the short term. There is a global shortage of gas and time will be needed before EU infrastructure bottlenecks – in import capacity and transportation networks – are relieved.
- The resulting cost issue for citizens and for businesses is extremely concerning, and will require the continued deployment of economic support. Politicians must decide whether to target assistance to where it is needed most, or to provide universal aid. More financial aid lessens incentives to save energy, and decision makers will need to decide how to reduce demand in other ways, including through prioritisation and rationing. We emphasise that an **intervention in market prices does not address energy scarcity** and that the costs of any intervention will be borne by citizens.

Transparency and information exchange (Articles 3-4)

- The original proposal appears to breach unbundling rules – a fundamental part of the European market design for 20+ years. It suggests that authorities and regulated entities would participate actively in the market, which could have considerable adverse impact on orderly commercial activity. We are pleased to see these concerns appear to have been reflected in the later version of the proposal.

Joint tenders and demand aggregation (Articles 5-11)

- Some degree of coordination may help smaller buyers to seek potential partners for the purchase of gas. Existing market services and arrangements go some way to facilitate this already and could be extended, rather than replaced, in order to create a speedier solution. Nevertheless, we foresee that reaching agreement across multiple parties would be challenging and could slow down or even prevent the conclusion of contracts if made mandatory. **Joint purchasing must therefore be voluntary**. Participants will need clear guidance on how they can demonstrate compliance with competition rules before they might choose to join such an initiative. The platform must also protect against unintended disclosure of confidential and sensitive information.

Measures to enhance the use of LNG terminals and Pipelines (Articles 12-14)

- Efficiently operating infrastructure and removing congestion are essential to allowing missing gas volumes to be replaced by increased LNG and non-Russian pipeline gas imports. This requires a combination of effective congestion management, improved capacity sales (for instance by maximising the amount of interruptible capacity offered at all Interconnection Points (IPs), and targeted investment and clear processes to ensure that new capacity is brought to market promptly and in a usable way.
- EFET strongly recommends the removal of specific provisions for withdrawing capacity as the proposal in the text could actually prevent efficient utilisation and thus prove counterproductive. If it is uneconomic to use capacity at certain times, then that should not become a basis for its removal in another period. The text would better direct authorities to address underutilised capacity using powers already available to them, where local circumstances can be taken into account.

Intra-day volatility management (Articles 15-17)

- Measures to reduce volatility, such as an *intra-day price volatility management mechanism*, may be considered. Care should be taken with their design to ensure that price formation is still reliable. They must avoid the prohibition of valid and beneficial trades which would either be driven off-exchange and onto OTC markets, or could be cancelled, leaving the system short of gas, and resulting in more drastic TSO balancing action. This could be calibrated by the exchanges themselves, in coordination with their local competent authorities.

Tasking ACER to collect and publish objective price data (Articles 18-22)

- The development of the global LNG market in recent years has been crucial in allowing Europe to maintain its energy balance during the current crisis. The rapid increase in imports has led to congestion at regasification terminals and in the pipeline routes through which gas is transported to its destination. It is this congestion which has led to spreads between LNG prices and TTF prices. The creation of a new complementary LNG benchmark could help to improve transparency in LNG trading, but will need careful specification of precisely what data must be captured and reported. For example, inclusion of bilateral non-public bids and offers data between counterparties or company portfolio related LNG mid- or long term contracts into such benchmark would not represent the price-level LNG can be traded at the times.
- Fundamentally, a new index will not address price differentials that arise from congestion.

Market Correction Mechanism (Articles 23-24)

- EFET is extremely concerned that price formation at TTF could be subject to intervention in the form of a *Gas Market Correction Mechanism*. The importance of TTF as a trading venue and price reference in physical and financial contracts cannot be understated. The risk of triggering contractual disputes by interfering with the mechanism by which the index is set could be highly damaging to the availability of gas supply, causing further upward pressure on prices elsewhere.

- A cap on the price of gas – even if temporary – could limit the willingness of sellers to offer gas to balancing markets because higher prices are available elsewhere. This could lead to an earlier need for TSO intervention to curtail demand and the need for governments to mandate demand reduction. Where this has cross-border effect, solidarity could be compromised.
- A price cap on energy derivatives will undermine their functioning and result in risks to financial stability. Platforms that enable sales and purchases of gas and related financial products would need to cease if they could not meet obligations on running fair and orderly markets. The management of open positions, the ability to perform on margining requirements (that will necessarily increase), and containment of defaults will all be severely compromised.
- The imposition of a price cap on TTF does not address the scarcity problem. Even a short intervention would have severe, unintended and irreversible consequences in harming market confidence that the value of gas is known and transparent. Alternative mechanisms to protect consumers financially should be pursued instead.

Measures for the case of a gas emergency (Articles 25-32)

- Demand reduction remains key to the maintenance of supplies through safe networks in a constrained-supply world. If an imbalance persists, pressures drop and system operators must curtail demand or shut down altogether. High prices have encouraged additional deliveries to Europe and have incentivised demand savings. EFET advises that further voluntary reductions should be encouraged, e.g. through advice and appeals to the general public. If this is insufficient, further coordinated demand reduction could be achieved through commercial mechanisms (e.g. by consumers bidding values at which they would be prepared to turn down) or externally imposed (e.g. through prioritisation of certain sectors by national authorities based on economic and social factors). Ultimately, further shortages must be managed by TSOs to ensure security and to preserve life and limb, but this should only be used as a last resort.
- We note that solidarity arrangements have been difficult to agree, and guidance from the Commission is welcome to encourage Member States to make provisions in advance of an emergency, though some fine tuning is necessary. With regard to the default rules for solidarity measures, the use of the average price of the month prior to the solidarity may trigger spurious solidarity requests at times when higher priced gas is available on the market, to the detriment of the solidarity provider. A more reflective price would be a better default.
- We support the recognition that cross-border flows must be safeguarded. Consideration should also be given to Energy Community Contracting Parties and other interconnected networks.

EFET represents 130 member companies active in trading gas, power and carbon across Europe. We would be happy to work with colleagues from the European Institutions or at Member State level to refine and finesse the design of these important proposals.