



Directorate-General  
for Energy  
and Transport



# ● Preparation of a tailor-made Integrity and Transparency Regime for traded wholesale markets for electricity and gas

EUROPEAN COMMISSION

H. Hick, TREN C 2 “Electricity & Gas”

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## Outline

- Policy case for a legal initiative
- Elements of a market integrity framework
- Basic design options: pros & cons
- The way forward

# ● Policy case for a EU regulatory initiative

- Wholesale price levels reflect end-consumer prices & set price signals for investments
  - » Regulatory interest in ensuring that traded energy markets remain prudent and prices reflect fundamentals → public trust is essential!
- Wholesale markets increasingly becoming regional/European
  - » regulatory supervision remains national
- Transactions are executed in different ways
  - » Regulatory oversight is fragmented
    - OTC vs. Exchanges
    - Regulated vs. unregulated marketplace



Increasing need for a dedicated market integrity and transparency framework

# ● Transparency in wholesale transactions

- Neither EU level energy (Directives/Regulation on internal energy market) nor financial regulations (MiFID & MAD) contain specific transactional data transparency obligations applicable to regulated markets or brokers' screens.
  - » MiFID → only generic obligation for 'fair and orderly' trading rules
- In practice all power exchanges make aggregated price and volume data available (partly based on national obligations)
- OTC markets assessed by price reporters; single anonymous transactional data are also available

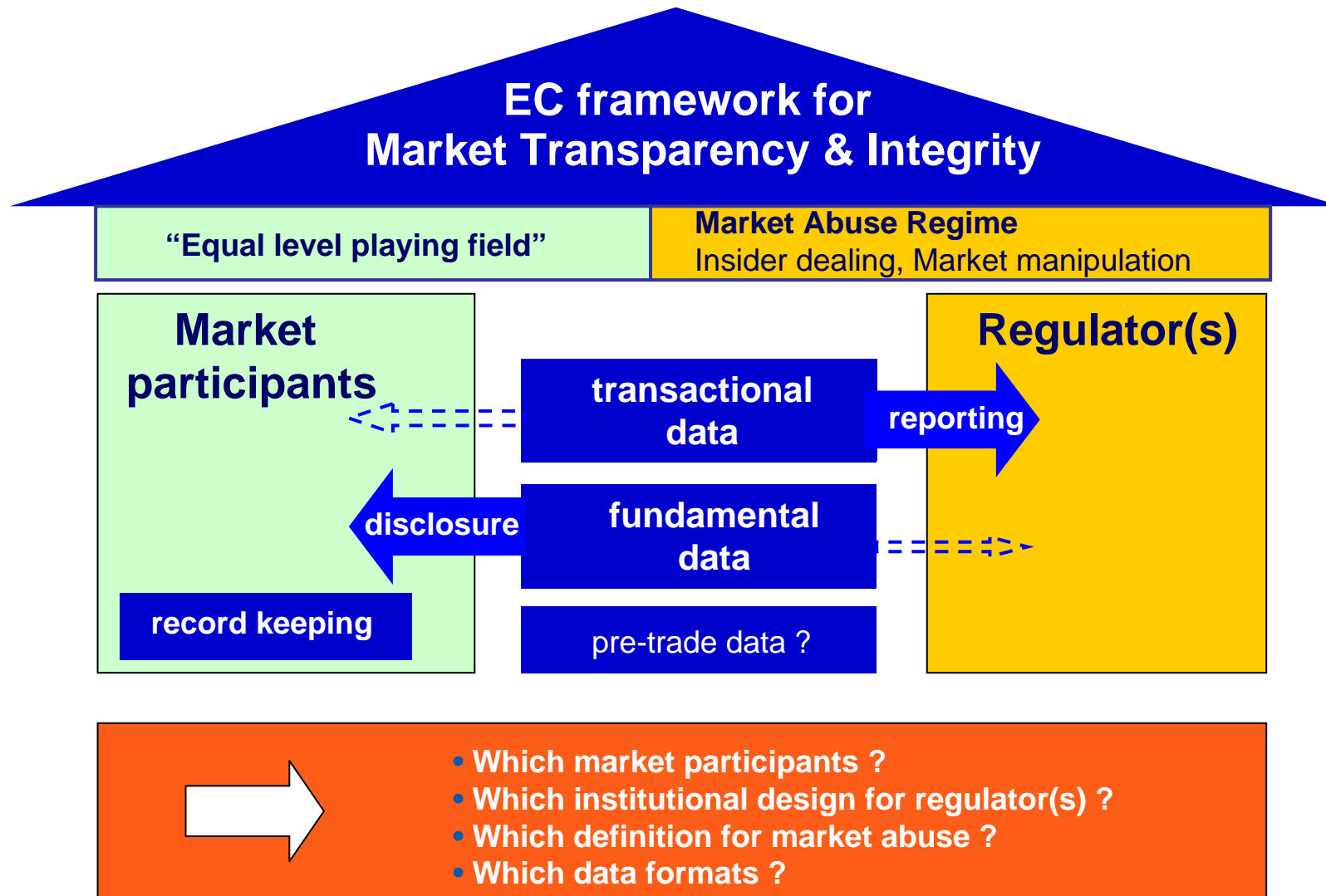
# ● Gaps in regulatory supervision

- No comprehensive transaction coverage
  - » No transaction reporting required by EU Energy Directives / Regulations
  - » MiFID reporting obligation only covers commodity derivatives traded on RM – RM reports to financial regulator
  - » No OTC transactions reported
- No comprehensive geographic coverage
  - » EU national regulators do not have access to trades relevant for them if executed in a different jurisdiction
    - What about trades executed in Switzerland?

# ● Objectives to be pursued

- Creation of consistent EC regulatory framework ensuring market integrity with effective institutional set-up
  - » Monitoring of all standard transactions
    - Physical & financial
    - Spot & forward
    - On & off-exchange; brokered & non-brokered
  - » Monitoring generation, production and flow data
  - » Sufficient product coverage: beyond electricity & gas ?  
CO2 ? traded transmission rights ?
  - » Make use of already reported data
  - » Powers to sanction

# ● General Architecture



## ● Key design options: Commodity scope

### 1) Electricity & gas only

- strong household consumer focus: monthly electricity & gas bill
- legislative and institutional design easier

### 2) Beyond electricity & gas: carbon markets

- broadening of entities covered (e.g. emitting industrials ?)
- recognition of strong cross-commodity interconnectedness
- legislative and institutional design more complex
- all 3 clearly within EC regulatory reach
- additional transactional reporting burden

### 3) Beyond electricity & gas & carbon markets: coal, oil

- full recognition of cross-commodity interconnectedness
- limited EC regulatory reach, risk of international regulatory arbitrage
- need for international regulatory coordination
- legislative and institutional design more complex
- additional transactional reporting burden



# ● Key design options: Fundamental data

## 1) Scope of 3rd IEM Package

- preference for 3rd IEM Package comitology (timing)
- limitation in commodity scope: electricity & gas only

## 2) Differentiation between electricity & gas

- maximum harmonization
- recognition of different physical characteristics

## 3) specific fundamental data needs of regulators

- different needs of price-sensitive data for market participants as compared to regulators (oversight purpose) ?

## 4) Operational design of effective disclosure regime

- industry-organised joint platform
- regulatory involvement

# ● Key design options: Monitoring models

## 1) Integrated vs. sectoral (*physical vs financial*) monitoring

- recognition of different regulatory objectives (financial market stability, investor protection, consumer protection, ..)
- effectiveness issues (ensuring complete oversight)
- inter-agency demarcation issues

## 2) Member State level monitoring

- risk of multiplication / divergence of regulatory designs
- inter-agency issues (incumbent structures)
- regulatory arbitrage risks among Member States

## 3) EC level monitoring

- recognition of interconnectedness between European trading venues
- concentration of collective institution building effort necessary
- need to solve issue of sanctioning power

## ● Key design options: Transactional data

### 1) Record keeping only, no regular reporting

- competent authorities (whichever) request data case by case
- no comprehensive oversight

### 2) Multi-channel reporting to regulatory authorities

a) derivatives transactions to national security regulators  
[and *trade repositories* – to be created ?]

b) spot transactions to national [and / or EU-level – to be created ?]  
“Energy” regulator

### 3) Mono-channel reporting to single EU-level regulator [to be created ?]

➡ **PROS & CONS of options 1) – 3) to be discussed !**

## Process ahead

### 1) Ongoing DG TREN study (Dec09 – Mar09)

- *Legal analysis on current market oversight regimes in Europe (complementing / completing CESR-ERGEG Advice)*
- *Illustration of market misconduct scenarios*
- *Appraisal of effectiveness, efficiency and coherence of existing oversight regimes*
- *Mapping of basic design options for an effective, efficient and coherent pan-European oversight and market integrity regime*

### 2) Impact Assessment: 1<sup>st</sup> -2<sup>nd</sup> Q 2010

- *Assessment of different design options for market integrity regime*

### 3) Public consultation: 1<sup>st</sup> -2<sup>nd</sup> Q 2010

### 4) Close cooperation between Commission, ERGEG and CESR is key !

→ ERGEG FIS-WG and COM to closely coordinate planning for 2010



# Thank you for your attention

