

EDSO recommendations on Market Design for trilogue discussions

June 2018

EDSO believes that the Clean Energy Package is a real opportunity for DSOs to contribute to and successfully meet the challenges of a flexible, decentralised and highly digitised energy system – particularly as this transition is mostly affecting distribution grids at local level. As the inter-institutional debates on Market Design are entering trilogue discussions, we would like to share our views on the most important points in the Electricity Directive and Regulation:

- 1. Fast challenges need an effective and operational framework for the EU DSO entity.** EDSO believes the following elements still need to be improved in the Regulation: i) voting rights and decision-making based on a fair and proportional representation of DSOs according to the number of connected customers (we reject the proposed Board 9/9/9 division as it does not fairly represent end-customers); ii) prescriptive governance and voting rules (Art 50a) should be left for the Entity's Statutes similar to ENTSO-E's setup; iii) secure a level playing field with the TSOs.
- 2. Match DSO/TSO responsibilities on network codes and data management.** We are concerned by the Council's and Parliament's approaches for involving ENTSO-E in all future network codes to be drafted by the DSO entity without an analogue obligation on ENTSO-E. The proposals clearly lack reciprocity and limit the much-needed DSO entity's involvement in network codes. We also caution against granting new TSO responsibilities in data management, cybersecurity and data protection related to end-customers/network users; or mandating TSOs with setting up data platforms without prior assessment of costs and options available.
- 3. Encourage DSOs to innovate – and not take away important means and instruments.** We raise serious concerns about Parliament's Art 36 (a), Directive prohibiting future DSO activities, which contradicts the evolving roles DSOs are required to perform as part of the energy transition mostly happening at the local level. This marginalises DSOs and hinders innovation at a time when future technologies have not yet fully developed, and no similar restrictions are foreseen for TSOs. Furthermore, EDSO sees for instance a role for DSOs in deploying charging infrastructure where market parties are reluctant to invest or provide sufficient geographical coverage.
- 4. Enable DSOs to use all flexibility options, including storage as a regular network asset.** Council rightly recognises DSOs' needs to use a range of flexibility solutions and tools already integrated in existing assets (i.e. storage). Parliament's position needs improvement to ensure symmetrical regulatory treatment of DSOs and TSOs, thereby ensuring a cost-efficient operation. We support an approach that gives Member States discretion to decide on consultation processes carried out by DSOs on network development plans and disagree on their submission to external entities (NRAs or TSOs) to avoid network development fragmentation. Unlike for transmission, carrying out plans for 5 to 10-year timeframes is much more complex for distribution levels.

5. **Clarify roles of energy communities to ensure their full participation in electricity markets.** Energy communities can play an important part in the energy transition, particularly in promoting renewables and new customers' services. We welcome Council's and Parliament's clarifying responsibilities not only on network costs but also on other policy or system costs to avoid that customers not participating in an energy community are disadvantaged. If energy communities own and operate grids, they must in principle follow the same rights and obligations as DSOs.
6. **Support an enabling framework which respects the diversity of national tariff structures.** We support both Council's and Parliament's proposals which remove the need for a new network code on harmonised distributed/transmission tariffs, and centres ACER's role on the cooperation between national regulators through the drafting of a best practice report on tariff methodologies. Any rules on network tariffs are best implemented at the national level under NRAs' supervision. We however caution against the Parliament's proposal making time-differentiated network tariffs mandatory, as this solution is certainly not cost-efficient EU-wide.
7. **Ensure DSOs' access to all necessary data, maintain data formats already in place.** We are concerned by the proposed positions mandating for a common EU data format without having first carried out a thorough cost-benefit analysis. This would significantly increase costs given the heterogeneity of national practices and market processes, and with no guarantee of performance. EDSO supports the Council's proposal which suggests that interoperability standards are sufficient, and reinforces the references to General Data Protection Regulation.
8. **Implement cost-efficient smart metering functionalities.** EDSO welcomes Council and Parliament's proposed frameworks that smart meters already installed are exempted from complying with technical requirements if they are not cost-efficient. Since in most countries DSOs are responsible for metering while customers' energy awareness falls under the scope of market parties, DSOs should not be obliged to provide validated data through in-home displays.
9. **Boost DSOs' roles in risk preparedness to guarantee security of supply.** As operators of critical infrastructures, DSOs need to be involved at all stages of risk preparedness planning. Cyber-attacks, such as the ones targeting the Ukraine distribution grid in 2015 and 2016, have revealed system vulnerabilities, highlighting the need for better coordination. This also means that DSOs should be included in relevant bodies such as the Electricity Coordination Group.
10. **Fully involve DSOs in ACER decisions, including network codes.** We welcome the idea to equip ACER with adequate resources to fulfil its tasks. When revising network codes, it is essential that DSOs are fully involved before ACER submits its proposal to the Commission. The former voting rule (2/3) should be maintained as it ensures representative decision-making.

I. Electricity Regulation

Support an enabling framework which respects the diversity of national tariff structures

Network Tariffs (Art. 16.7)			
Commission	Council	Parliament	EDSO position
NRAs may introduce time-differentiated network tariffs where SM has been deployed	Time-differentiated network tariffs may be introduced where SM has been deployed	Obligation for competent authorities to introduce time-differentiated tariffs where SM has been deployed	Supports Council/Commission. DSOs are using different types of network tariffs and one-size-solutions do not work: prescribing time-differentiated network tariffs as the only solution is not acceptable.
Tariffs shall grant incentives to DSOs for network efficiency and related research activities; costs to be recognised by NRAs	Tariff methodologies shall reflect incentives and fixed costs of DSOs; the allowed revenue shall reflect incentives for DSO innovation & may include performance targets for network efficiency	Connection capacity elements	Welcomes the introduction of performance targets for network efficiency and recognition of fixed costs in network tariffs (Council position) and capacity elements (Parliament) as they better reflect network usage & costs.
Network Tariffs (Art. 16.9)			
ACER recommendation on convergence <ul style="list-style-type: none"> G-/L-split dynamic tariffs 	No harmonization of network tariffs; ACER's recommendation focuses on a best practice report	ACER shall evaluate the feasibility on convergence of transmission and distribution tariff (study)	Supports Council and Parliament's positions. EU-wide network tariff harmonisation based on ACER's

<ul style="list-style-type: none"> time-differentiated network tariffs locational signals 			recommendation is not advisable.
Network Tariffs (Art. 55.1 (k))			
Proposes network code on T&D tariff structures	Deletes proposed NCs on D&T tariff structures	Deletes proposed NCs on D&T tariff structures	Supports Council and Parliament's position. NC are not the right tool to address distribution tariffs due to very heterogeneous conditions.

An effective and operational framework for the EU DSO entity

DSO Entity (Art. 49-51)			
Commission	Council	Parliament	EDSO position
Direct DSOs which are not part of a VIU or which are unbundled	All DSOs directly or indirectly (DSO associations observers in the Board)	All DSOs directly or indirectly via entities (national association designated by MS or EU level association; DSO associations observers in the Board)	Welcomes the inclusion of all DSOs. Disagrees with Council and Parliament' inclusion of associations which would weaken the EU DSO entity.
Costs recovered through tariffs if reasonable and proportional	Fair and proportionate membership fee for payment and registration	Costs recovered through tariffs if reasonable and proportional	Accepts Council's addition; yet fair and proportionate membership fee should be based on the voting weight.

Principle rules & procedures for EU DSO entity (Art. 50 a)			
N/A	Detailed governance & decision-making procedures: voting rights and majority rules (including the equal representation of DSO group representatives in the Board 9/9/9), limitation in the BoD, criteria for proxy representation, origin and number of Expert Groups		Supports the Commission's simpler governance structure, on par with ENTSO-E. The Entity's Statutes should deal with all the details introduced in Art 50 a, and not the Regulation. EDSO strongly rejects Parliament and Council's 9/9/9 division in the Board as it does not reflect a fair and proportional DSO groups representation. Voting weights should be proportional to the connected customers' numbers.
N//A	DSO/TSO cooperation to be led by the Board of Directors	DSO/TSO cooperation to be led by the Board of Directors	Supports Council's and Parliament's views supporting an equal level playing field between TSOs and DSOs.
Tasks of the EU DSO entity (Art. 51)			
Tasks: TSO/DSO coordination; integration of RES, DG, storage in the DSO grids; development of DR; digitalisation of distribution grids; data management, cyber security and data protection;	Tasks remain on technical focus (network codes), and promotion and facilitation of other tasks	Tasks remain on technical focus (network codes) and promotion and facilitation of other tasks Additional task on guaranteeing non-discriminatory and neutral access to data, and promoting	Supports Commission and Council. Parliament's additional obligations on DSOs' data responsibilities are redundant (already included in cooperation with TSOs).

development of network codes, cooperation with ENTSO-E.		standardisation and cross-border exchange with ENTSO-E.	
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Match DSO/TSO responsibilities on network codes and data management

Network Codes (Art. 54, 55)			
Commission	Council	Parliament	EDSO position
No level playing field between ENTSO-E and DSO entity in the drafting, elaboration and submission of network codes	<p>Limits further the responsibility of DSO entity in drafting network codes</p> <p>DSO entity cannot draft, elaborate nor submit proposals for network codes alone, BUT always with ENTSO-E</p> <p>ENTSO-e managing the drafting committee, DSO entity only formally consulted on priority list</p>	<p>Imbalance between ENTSO-E/DSO entity not fully solved</p> <p>ENTSO-e is managing the drafting committee, DSO entity only formally consulted on the priority list</p>	EDSO supports that the EU DSO entity has full competence in elaborating network codes related to distribution system; and together with ENTSO-E for network codes related to both transmission and distribution.
Network Codes (Art. 54, 55)			
Proposes new NC on harmonized T&D tariffs; energy efficiency in networks,	Deletes NCs harmonising distribution tariffs, energy efficiency in networks, demand response; only sector-specific rules for cyber security.	Deletes NC on harmonized T&D tariffs;	Supports Council's position which deletes several NCs. Details on all these relevant matters should be fleshed out at the national level.

TSOs' tasks in data management (Art. 27)			
N/A	N/A	Standardise data formats for cross-border data exchanges	Disagrees with the Parliament's position. Any standardisation of data formats should be subject to a thorough cost-benefit-analysis.
		New TSO responsibilities in data management, cybersecurity and data protection	Supports Commission. TSOs and DSOs tasks in data management need to be reciprocal. TSOs' responsibilities on data management should not interfere with end-customers /network users, where DSOs are main responsible.

II. Electricity Directive

Clarify roles of energy communities to ensure their full participation in electricity markets.

Local energy communities (Art. 16) – Electricity Directive			
Commission	Council	Parliament	EDSO position
<p>Obligation on member states to ensure that local energy communities are entitled to own, establish, or lease community networks with or without connection to DSOs networks</p> <p>Subject to provisions under Chapter IV (unbundling)</p>	<p>Leaves member states the decision to grant energy communities with the right to own and manage distribution networks</p> <p>Extends the conditions under Chapter IV to other rules and obligations applying to DSOs.</p>	<p>Obligation on member states to ensure that local energy communities entitled to own, establish, or lease community networks and autonomously manage them is maintained</p> <p>Extends conditions under Chapter IV to other relevant DSO rules & obligations and to respect concession rules</p> <p>Same quality of standards and network services for members as for non-members</p>	<p>Prefers the Council’s position granting the right and conditions for energy communities to engage in grid activities to the member states. We agree that if energy communities own and operate grids, they must follow same rights and obligations (supplier switching rights but also additional rules on metering, connection, billing, and other service obligations).</p>

<p>Energy communities are subject to fair and cost-reflective charges; no explicit reference to the overall distribution of network charges applied to connected users and how they contribute to the system.</p>	<p>Clarifies that cost-reflective network charges contribute in an adequate and balanced way to the overall cost of sharing the system.</p>	<p>Clarifies that energy communities adequately contribute to the costs of the electricity system to which they remain connected.</p> <p>Additional rights for energy communities to engage in virtual net metering schemes.</p>	<p>Welcome Council' and Parliament's clarifications on balancing members and non-members contribution to network charges in a way that more adequately reflects system costs for all users. But we strongly disagree with Parliament introducing virtual net-metering schemes which create inefficiencies and cross-subsidisation for consumers.</p>
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Implement cost-efficient smart metering functionalities

Entitlement to a smart meter (Art. 19)			
Commission	Council	Parliament	EDSO position
<p>Smart meters must comply with minimum functional and technical requirements</p>	<p>Smart meters provisions apply only to future installations and replacement until technical lifetime</p>	<p>Smart meters requirements must be met when replaced at the end of their economic lifetime or earlier</p>	<p>Agrees with Council and Parliament's position. Ongoing roll out should not comply with provisions of art 19, 20 and annex III. We agree with minimum functionalities but some of the outlined functionalities are not cost effective nor desired (switch).</p>

Smart metering provisions (Art. 20)			
Information on actual time of use shall be easily accessible and visualised by the customers at near real time and at no cost	Only non-validated data shall be provided to customers in near-real time. Validated historical data shall be available and visualized on request.	Only unvalidated data shall be available near real time through a standardised interface. Validated historical data shall be available to customers on at least in-home displays.	Supports the Council which proposes that customers can receive validated historical data from an interface on request. In-home displays showing data gathered from the meter shall not be understood as an obligation for the DSO, leaving room for other market actors.

Ensure DSO's access to all necessary data, and avoid harmonisation of data formats.

Data management (Art. 23)			
Commission	Council	Parliament	EDSO position
MS or designated authority shall authorize and certify the eligible parties accessing customers' data based on their explicit consent in accordance with Regulation (EU) 2016/679	MS or designated authority shall specify rules for access to the data by eligible parties on the basis of customers' consent or other basis foreseen By GDPR. Personal data also falls under the GDPR.	MS shall define the eligible parties that may access customers' data based on explicit consent Eligible parties shall give an overview of parties accessing data upon customers' request	Agrees with Council's position which strenghtens DSOs' involvement in data management. We support that national frameworks comply with GDPR as this already sets relevant rules on access to data.
Interoperability requirements and procedures for access to data (Art. 24)			
MS shall define a common data format; COM to determine common EU data format	No common data formats; only interoperability requirements building upon existing practices	MS shall apply either interoperability standards OR a	Fully support Council's position. Any decisions for implementing

		common EU data format determined by the Commission	common data formats should be subject to a thorough CBA.
DSOs' tasks in data management (Art. 34)			
N/A	N/A	Makes TSOs responsible for data management platforms to secure unprivileged access to data by vertically integrated undertakings.	Strongly disagrees with the Parliament giving unilaterally new responsibility for TSOs in data management platforms, without taking into account the presence of existing national data hubs and unbundling rules. Any data management platform discussion should start by looking at the data-sources particularly as it is unclear what a data management platform is.
TSOs' tasks in data management (Art. 40)			
N/A	N/A	Standardisation of data formats for cross-border exchange of data between DSOs and TSOs	Disagrees with the Parliament's position. There is no need for standardisation of data formats duplicating existing formats.
N/A	New TSOs' responsibilities in data management, data management systems, cyber security and data protection without prejudice to other competent authorities.	New responsibilities given to TSOs on data management, cyber security & data protection.	Supports Commission's original Art 23 which enables MS to choose their own model. The data sources (whether from distribution or transmission connected users) should be guiding in any discussion.

			Legislation should not be misinterpreted that TSOs' tasks in data management refer to distribution networks.
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Allow DSOs to use all flexibility, including storage as an integrated network asset

DSOs' tasks in flexibility (Art. 31, 32)			
Commission	Council	Parliament	EDSO position
Market-based procurement of flexibility services by DSOs	NRAs can grant derogation from market-based procurement Fully integrated network components exempted from procuring services	Market-based procurement of flexibility services by DSOs	We fully agree with Council's position that fully integrated network assets are not subject to market procurement and that regulatory exemptions to market based procurement can be applied.
DSOs to define standardised market products for flexibility	Only specifications for flexibility services defined by DSOs or NRAs with TSOs	DSOs to define standardised market products consulting all system users	We agree with the Council position that specifications for flexibility services are enough. Nonetheless, we also agree with the Commission and the Parliament on the need to make DSOs the main responsible entity for this activity. Market parties can choose how to deliver the products as long as they comply

			with specifications and requirements set by the DSOs.
<p>DSOs to develop network development plans with investments for next 5 -10 years; submitted every two years to NRAs</p> <p>NRAs shall carry out consultations with system users</p>	<p>DSOs shall develop network plans with investments for the next 5 -10 years; published at least every 2 years and submit to NRAs and the TSO. NRA may request amendments.</p> <p>Obligation for DSOs to consult all system users & publish results and submit to NRA</p>	<p>DSOs shall develop network plans with investments for the next 5 -10 years; submitted every two years to NRAs</p> <p>Obligation for DSOs to consult all potential system users</p>	<p>NDPs with long planning timeframes are very difficult to be carried out at the distribution level – and should be limited to high-voltage only. MS are best placed to decide on the consultation process on DSOs’ network plans, carried out by DSOs. We disagree with the additional submission to the NRA or the TSOs as network development efficiency as key core DSO task should not be divided among different actors.</p>
DSO storage ownership (Art. 36)			
<p>DSOs may not own, develop or and operate storage</p> <p>Strict derogations allowing DSOs to get involved: open tendering, NRA’s approval and grid security</p>	<p>MS may allow DSOs to own and operate storage facilities which are fully integrated network components.</p> <p>Storage cannot be used for congestion management</p>	<p>Exception for DSO storage for local short-term control with no influence on the markets and as approved by the NRAs</p> <p>TSOs storage considered an integral part of the transmission system</p>	<p>Welcomes opening for DSOs to use own storage as an integrated network asset and without engaging in commercial activities (Council &Parliament).</p> <p>However, DSOs’ storage as an integral part of the system should be fully recognised in the same manner as for TSOs’</p>

			(integral part of the distribution system) (Parliament, AM 148). In addition there is a need for extending the definition of integrated network components, as proposed by the Council, to technical balancing of networks and preventing network congestion.
NRAs to reassess the market every 5 years; no compensation mentioned in case of phase out	Only TSOs' fully integrated network components (storage) are exempted from the 5-year consultation NRAs may allow DSOs compensation for phase-out	MS to reassess market interest every 5 year; costs to be recovered in case of phase out	We fully agree with Council's position that fully integrated network components are exempted from undergoing public consultations. However, this right shall also be extended to DSOs, and not only TSOs.

Give DSOs the right tools to innovate – and not take away important means and instruments necessary to meet the energy transition

Restriction of new DSO activities (Art. 36 (a) new) – Electricity Directive			
Commission	Council	Parliament	EDSO position
N/A	N/A	Prohibits DSOs from performing future activities beyond those set in the Directive & Regulation	Disagrees with the Parliament' position reducing DSOs' future options in facilitating markets and customers, such as data

		MS may allow DSOs to carry out other activities under conditions: open tendering, necessary for efficient and reliable grid operation, obligation to cooperate with TSOs.	management, digitalisation or energy efficiency. This is detrimental for the future evolution of distribution networks and will hinder DSOs innovation at a time when DSOs are asked to maintain reliable system operation when faced with more complex challenges.
DSOs' roles in EV charging infrastructure (Art 33) – Electricity Directive			
DSOs may not own and operate EV recharging points. Strict exemptions: open tender, regulatory approval	Exception for DSO ownership & operation for own private charging points; otherwise market test applies.	Market provision (tendering) must prove it is cost-efficient and can be delivered in a timely manner.	DSOs can under certain conditions play a role in deploying the basic infrastructure for EVs to facilitate the e-mobility market if approved by the regulator. Supports more open positions that Parliament or Council.

III. Risk Preparedness Regulation

Recognise DSOs' roles in risk preparedness planning to guarantee security of supply

Risk identification methodology and involvement of DSOs (Art. 5.4, 8.2)			
Commission	Council	Parliament	EDSO position
ENTSO-E proposes risk identification methodology and needs to consult DSOs and other stakeholders	ENTSO-E proposes risk identification methodology and needs to consult DSOs and other stakeholders	ENTSO-E proposes risk identification methodology and needs to consult DSOs among other stakeholders	DSOs' roles in managing risks at distribution level should be fully recognised; we welcome proposals of Commission, EP and Council in this regard
Involvement of DSOs in identification of most relevant crisis scenarios and risk preparedness plans (Art. 7, 10, 11)			
No mention of consulting DSOs in identification of most relevant electricity crisis scenarios and before establishing risk preparedness plans (RP)	MS authorities assess relevant risks to security of supply and establish risk preparedness plans in cooperation with DSOs and other stakeholders National risk preparedness plans specify how TSOs and DSOs should act to decrease energy consumption	MS identify most relevant electricity crisis scenarios at the national level, with at least the involvement of national DSOs, TSOs and generators, whilst ensuring the confidentiality of sensitive information; establishment of RP plans after consulting DSOs and other actors	We welcome both proposals of EP and Council to involve DSOs in the identification of relevant electricity crisis scenarios and the establishment of national risk preparedness plans, while there is no mention from EC in this regard
Security of supply (Recital 10)			
N/A	N/A	Security of supply a shared competence among many actors, incl. DSOs and TSOs (Recital 10)	We welcome the EP's addition on the DSOs' shared competence with TSOs concerning security of supply.

Inclusion of DSOs in Electricity Coordination Group (Recital 28)			
N/A	N/A	The Commission should take appropriate measures to ensure that the composition of the Electricity Coordination Group is revised to include new stakeholders such as industry, the future EU DSO and consumer organisations.	If Electricity Coordination Group will peer-review plans, it should be open to DSO representatives; therefore, we welcome the EP's proposal to revise the composition of the Group and to include the future EU DSO entity.

IV. ACER Regulation

The role of ACER and involvement of DSOs in the development of network codes

ACER and the EU DSO Entity (Art. 4, Recital 8)			
Commission	Council	Parliament	EDSO position
No reference to EU DSO Entity	ACER provides opinion to EC on draft statutes, list of members and draft rules of procedure of the DSO Entity and monitors execution of its tasks – same for the ENTSOs; also provides opinion on draft annual work program and other relevant documents	ACER provides opinion to EC on draft statutes, list of members and draft rules of procedure of the DSO Entity and monitors execution of its tasks – same for the ENTSOs; also provides opinion on draft annual work program and other relevant documents, taking into account objectives of non-	Enhancing the role of ACER in new DSO areas, including the provision of an opinion on the DSO Entity's draft statutes, list of members, draft rules of procedure, etc. is positive insofar as it calls for a proper involvement and consultation of DSOs and is on equal footing with the ENTSOs. However,

		<p>discrimination, effective competition and efficient, secure functioning of the internal markets in electricity and gas</p> <p>ACER can issue decisions for the ENTSOs and DSO Entity to comply with their obligations specified in this Regulation, network codes, EP Regulation...</p> <p>ENTSOs and DSO Entity shall provide all information that ACER needs to fulfil its tasks</p> <p>ACER should have certain regulatory oversight over DSO Entity</p>	<p>there is no need for a regulatory oversight of the EU DSO Entity, as mentioned by EP, which has no rule-making power itself. In that respect we prefer the Commission's or Council's position.</p>
ACER's role in network codes (Art. 5)			
<p>No mentioning of the necessity to consult the DSO Entity before submitting the revised network code to the Commission</p>	<p>ACER revises network code of the proposal and submits to EC, taking into account views provided by all involved parties during process led by ENTSO-E or DSO Entity; ACER to consult all relevant stakeholders on version submitted to EC; if</p>	<p>No mentioning of the necessity to consult the DSO Entity before submitting the revised network code to the Commission</p>	<p>When revising network codes, DSOs should be fully involved before ACER submits its proposal to the European Commission; therefore we strongly support the Council's proposal. The DSO entity should be fully involved in the network</p>

	ENTSO-E or DSO Entity fail to develop network code, ACER shall prepare it and submit draft network code to EC		code process and have right of scrutiny.
Voting rules in ACER's Board (Art. 19.5)			
Simple majority voting in ACER Board	Simple majority voting in ACER Board	2/3 majority voting at ACER Board	EDSO favours the Parliament's position as it guarantees representative decision-making
Fees to ACER for oversight of DSO Entity (Art. 32.1c)			
N/A	N/A	Fees shall be due to ACER for the oversight of activities and of the cooperation of transmission and distribution system operators, including through the ENTSO for Electricity, the ENTSO for Gas, and the EU DSO entity	ACER should have all necessary financial means at its disposal; however, the agency should not be financed through network tariffs which serve a different purpose; we therefore disagree with the EP's proposal in this regard