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Subject: Energiegroßhandelsdatenverordnung – EGHD-VO

Dear Dr Boltz,

We write in connection with your proposed Regulation introducing national reporting obligations in relation to wholesale energy products.

Our associations are strong advocates of a European framework for market integrity and transparency, given the importance of public trust in energy markets and the growing role of cross-border trade in Europe. Transaction reporting is an important element of the framework established in REMIT and we welcome the agreement recently reached on the Implementing Acts, which will introduce a comprehensive and harmonised set of reporting requirements across Europe in the course of 2015.

Our members are, however, very concerned about the proposal to institute a separate national reporting scheme in Austria. E-Control's proposal will lead to double reporting requirements for market participants in parallel to, but also going beyond the REMIT obligations. We note, for instance, that different definitions of reportable transaction are used, e.g. in relation to standard products, reserve/balancing energy products and storage. In our view, this directly conflicts with REMIT, which requires the European Commission to establish uniform reporting rules and to avoid duplicative reporting. Our legal assessment is that REMIT does not allow the systematic double reporting of transaction data which already has to be provided to ACER under REMIT.

Of course, E-Control, as any other national regulator, will have the ability to access the records of transactions submitted by market participants to ACER, where these have an impact on its national market. Moreover, E-Control can ask for additional data or explanations of transactions reported

to ACER where justified on a case-by-case basis (e.g. in relation to a specific investigation).

However, any additional information requested needs to meet a test, showing that the information is required for REMIT purposes, and is proportional; i.e cannot be achieved with lesser burden on market participants. We do not believe that the measures currently provided in the draft meet the proportionality test.

The impact of this additional national reporting scheme will be to increase compliance burdens and impose unnecessary costs – which ultimately have to be borne by customers. Aside from the reporting obligations, our members have difficulty in understanding the rationale for introducing a reporting scheme a matter of months before the harmonised European arrangements are due to start. This appears to create additional cost and implementation complexity without any significant benefit.

The definition of reportable activity in the proposed Regulation seems to go far beyond the scope of the Austrian wholesale energy market, as it potentially covers transactions with non-Austrian firms, activities of non-Austrian firms on trading venues in Austria and transactions between German firms within Germany (given the fact that Austria and Germany represent a single price zone in the electricity market). This could effectively lead to extra-territorial application of Austrian law in Germany. In general, the scope may be interpreted as covering transactions of all gas and electricity national markets interconnected with Austria, which would be enormously burdensome. This could possibly lead to some market participants wishing to scale back or even stop trading with Austrian counterparties or at Austrian trading venues in order to avoid these burdens, thus harming liquidity in the wholesale market.

Finally, we would like to express concern that the E-Control proposal could lead to a series of bespoke and uncoordinated national or regional schemes which will both create unnecessary administrative burdens and undermine the credibility of the EU-wide scheme managed by ACER. On the contrary, our Associations would like to see the removal or at least the revision of the various separate reporting requirements currently in place in national markets, in order to leverage on the information already submit-

ted under REMIT reporting. This would minimise the burden on market participants and simplify the information collection for regulators.

In conclusion we would strongly urge you to reconsider this draft Regulation and to undertake further discussion with stakeholders before going ahead with it. Our associations would be pleased to contribute to these discussions.

Yours Sincerely,

Marcel Steinbach