

Article	opinion	Comment	Amendment proposal
Where as 26	strongly disagree	We fully support the target of facilitating value stacking because this enables flexibility service providers to commercialise their flexibility assets and portfolios on all different market segments without any barriers. But what is meant here are presumably not bids, but volumes (capacity or energy). This is something that should be dealt with by market participants themselves (including system operators), and incentivised by «imbalance» settlement for different services.	(26) This Regulation aims at facilitating value stacking through interoperable and coordinated solutions as well as enabling portability of products between markets. Value stacking can be employed by service providers to maximize the value of flexible units in their portfolio. Coordination is understood as the organisation of different markets to ensure market integrity and non-double activation for example when market participants place bids in several markets or when forwarding of bids is realised.
Art. 2.15	disagree	The definition equates the request for data with the presence of an issue in the system. There should be a clear distinction between the two. Similarly, the definition implies that SOs must explicitly request data. In principle, it should not be the SO's responsibility to collect the data; instead, the required data should always be available to the impacted SO.	requesting system operator' means for the purposes of this Regulation the DSO or TSO requesting data or remedial action;
Art. 4.2 a	disagree	For Member States with an enormous number of system operators it is of utmost importance to reduce the number of responsible system operators for an efficient development process. The system operators not appointed for this task remain important stakeholders to be involved by the stakeholder process of sub-bullet (c)	(a) the participation of all competent system operators, their representation and their respective roles and responsibilities, specifically for the development of proposals for the common national terms and conditions in the context of this Regulation; (a) the nomination of the system operators responsible for the development of proposals for the common national terms and conditions in the context of this Regulation;
Art. 19.1	strongly disagree	References to balancing markets shall be dealt with in balancing guideline.	1. The national terms and conditions for service providers in this Regulation refer to the national terms and conditions for balancing service providers when the requirements of this Regulation refer to balancing services and to the national terms and conditions for service providers of local services when the requirements of this Regulation refer to local services procured in accordance with a market-based mechanism.
Art. 20.1	disagree	ACER text proposal may be misunderstood in that way that dedicated measurement devices (DMDs) are the preferred option which would always "override" the metering equipment. In order to avoid such misunderstanding, please change wording as indicated.	1. The injections and withdrawals for the settlement of the system operation services and the imbalance settlement shall be calculated based on the metering equipment of the connection point, unless. If the controllable unit uses its own method of calculating injections and withdrawals of energy, including a dedicated measurement device, in this case this method shall may be used for the abovementioned purposes, if the data granularity allows it.

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Art. 21.5 (new)	agree	Harmonised rules concerning the technical requirements to measurement devices could be a means to easier make use of flexibilities e.g. from e-vehicles. On the other hand, this would strongly interfere with the technology development processes e.g. in the automobile industry. BDEW proposes to foresee an assessment of the pros and cons by ACER.	5. Within 24 months after the entry into force of this Regulation, ACER shall assess whether EU-wide harmonised rules are needed concerning the technical requirements to the measurement devices of controllable units, including dedicated measurement devices, which are used to calculate injections and withdrawals of energy with the purpose to effectuate the settlement of the system operation services and imbalance
Art. 25	disagree	Editorial remark: Please adapt the headline of Article 25	Qualification for as service provider Alternatively: Qualification for service providers
Art. 32.4 (new)	agree	A common set of standards for the data exchange between CU operators and service providers is needed in order to avoid lock-in-effects for customers (i.e. a customer using a certain CU would always be "addicted" to the CU operator who installed the CU). The existing standards developed by the standardisation institutions should form the basis.	4. By 12 months after entry into force of this Regulation, EU DSO Entity and ENTSO-E shall, in cooperation with European Standards Defining Organisations, define, publish and maintain a list of European standards based on existing ETSI-CEN-CENELEC set of standards for the data exchange of CU operators communicating with service providers.
Art. 34.4	disagree	There must not be a mandatory requirement for every every system operator to operate and maintain these modules. These responsibilities should be set in the national terms and conditions. This will be in line with the second sentence of this paragraph.	4. The allocation of responsibilities Each procuring system operator shall be responsible for operating and maintaining one or more SP modules or CU modules shall be set in the national terms and conditions. If the national terms and conditions for service providers require a centralised flexibility information system, they shall clarify the single system operator who is responsible for its operation and maintenance.
Art. 38.2	strongly disagree	The procurement of reactive power requires a differentiated approach to procurement of active power, it should not be subsumed under the same set of rules. Therefore, it should be left to the national level to decide upon the procurement mechanism (market-based or non-market-based). Alternatively, the Chapter on reactive power as proposed by ENTSO-E and the EU DSO Entity (draft dated 8 May 2024) could be reintroduced.	2. As a general rule, sSystem operators shall procure local services within a bidding zone, including redispatching of generation, energy storage and demand response, in accordance with a market-based mechanism, unless the regulatory authority has granted a derogation according to Article 39. With regards to the procurement of reactive power as a measure to solve voltage issues, the procurement mechanism (market-based or non-market-based) shall be determined in the national terms and conditions.

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Art. 38.3	disagree	<p>The conditions which have to be assessed to prepare the decision on a derogation from market-based procurement should be described in Art. 39. There is no need to introduce them in Art. 38.3.</p> <p>Besides, it seems that subpoints (a) and (b) only refer to cases of a reassessment of an existing derogation (with subpoint (b) being formulated in a grammatically incorrect way). The only case which would be valid also for an initial derogation would be subpoint (c).</p> <p>Yet, especially subpoint (c) but also (a) require a "pre-assessment" on the question whether the respective case applies (e.g. whether the market-based procurement is inefficient). It remains unclear who would make this "pre-assessment" and on which basis.</p> <p>For these reasons, BDEW proposes to delete Art. 38.3 and to lay down the conditions for granting derogations in Art. 39.</p>	<p>3. Before granting or extending a derogation, the regulatory authority shall, at its own initiative or at request of at least one system operator, request the relevant system operator(s) to make an assessment on the market-based procurement of local services for parts or the whole transmission or distribution grid in at least the following cases:</p> <p>(a) the reasons for procuring the local services in accordance with a non-market-based mechanism, as concluded by the derogation approved by the regulatory authority in accordance with Article 39, are no longer applicable to parts or the whole transmission or distribution grid or to some technologies, resources or products;</p> <p>(b) demonstrated efficiency of a market-based concept from pilot or regulatory demonstrative projects; or</p> <p>(c) the market-based procurement of local services is inefficient.</p>
Art. 38.4	disagree	<p>As a consequence of the proposal to delete Art. 38.3 and to introduce the necessary rules in Art. 39, BDEW proposes to delete also Art. 38.4.</p>	<p>4. After the assessment as referred to in paragraph 3, the regulatory authority shall determine whether the procurement of local services should take place or continue. If so, the national regulatory authority shall decide:</p> <p>(a) whether extending an existing derogation approved in accordance with Article 39 for the cases described in paragraph 3(a) and (b); or</p> <p>(b) whether a derogation is granted according to Article 39 for the case described in paragraph 3(c).</p>

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Art. 39.3	disagree	<p>BDEW proposes to enter an introductory sentence in Art.39.3 in order to name the general conditions for a derogation (i.e. market-based is not efficient and effective) and to clarify that an assessment by the national regulatory authority is needed.</p> <p>From BDEW's understanding, a derogation from market-based procurement is not granted for single system operators but for all system operators in the respective member state. Therefore, it does not make sense to formulate the size of the DSO(s) as a criterion. Rather the number of DSOs in the respective country would be a criterion because it is relevant for the feasibility of a market-based approach.</p> <p>Besides, the conditions set in Article 13 (3) of the Electricity Regulation should be taken into account when deciding on a derogation from market-based procurement.</p>	<p>3. System operators may only use non-market based solutions if the competent national authority has come to the conclusion, after a thorough assessment, that market-based procurement is not a viable measure to efficiently and effectively solve congestion or voltage issues. In its assessment which will be the basis for the decision on a derogation from market-based procurement, The derogation issued by the regulatory authority shall at least:</p> <p>(a)take into account the latest DNDPs including estimated needs for local services and available resources, DSOs observability areas, and the national assessment on flexible connection agreements, where applicable;</p> <p>(b)specify, where relevant, the parts of the system, the voltage levels, the system users, the time periods, and the products, especially short-term and long-term products that it applies;</p> <p>(c)take into account the size-number of the DSO(s) in the respective Member State;</p> <p>(d) specify its duration; and</p> <p>(e)be published on its website ; and</p> <p>(f) take into account the conditions referred to in Article 13(3) of Regulation (EU)</p>
Art. 39.4	disagree	<p>In case the regulatory authority has to always explicitly grant a new derogation as described in Art. 39 (2) and (3) it seems inadequate to set a firm maximum time period. Instead, the regulatory authority should take into account the time needed to decide on new rules and to implement them. On this basis the authority should fix the duration of the derogation.</p> <p>Preferably the regulatory authority only needs to evaluate whether "significant changes of conditions that are ground for non-market-based solutions have occurred" (compare Art. 47 paragraph 5 of the proposal by ENTSO-E / EU DSO Entity dated 8 May 2024).</p>	
Art. 41.2f	disagree	<p>Editorial remark:</p> <p>Please change the wording here in order to be coherent with definition of market-based procurement in Art. 2.10 and to include also auction-based processes.</p>	<p>(f) guarantee protection of confidential data as well as transparency of the tendering-bidding process ensuring that no service provider has access to preferential information over other service pursuant to Article 46.</p>

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Art. 41.3b	strongly disagree	System operators shall not develop unilaterally without formal involvement of NEMOs provisions on the coordination between operators of local flexibility markets and operators of SDAC and SIDC. What is suggested here would lead to 27 different provisions for each member state that NEMOs would have to consider. This creates unnecessary complexity. The target of interoperability between local flexibility and wholesale electricity markets shall be achieved instead through standardization, such as product compatibility, process improvement, and technical standards (such as the CIM).	b) provisions on the coordination of the operators under (a) with operators of other markets, and the rule governing the interrelation – whether sequential, parallel, simultaneous or other – of the local markets and the day-ahead, intraday, and balancing markets pursuant to Article 43;
Art. 41.6	disagree	As system operators, TSOs' and DSOs' are not the actors which could best examine and make proposals for the coordination of the local flexibility markets with other markets.	6. By 3 years after entry into force of this Regulation, ENTSO-E and EU DSO entity shall develop a proposal for a Union-wide methodology for further specifying aspects of the market-based procurement of congestion management service in accordance with Article 10 , including, but not limited to, the list of product attributes, the procurement methods, the coordination with other markets , stakeholders information and transparency.
Art. 42.6	strongly disagree	From the paragraph it remains unclear for what purpose bids shall be forwarded and under which conditions. This scheme raises more questions than provides solutions, such as on roles, responsibilities, contractual relationships (e.g. membership with exchanges), cost structure (e.g. collaterals when relevant), and level playing field with other market participants. The Network Code should focus on facilitating revenue stacking, not proposing a solution (bid forwarding) that has not been thought through. Giving „consent“ is clearly not enough of a condition to be able to „forward bids“.	6. Each procuring system operator shall coordinate with other procuring system operators in accordance with the rules for the market-based procurement of local services pursuant to Article 41. Subject to the service provider's consent, the procuring system operator shall forward bids – combined or not – to other markets, while ensuring the necessary transparency and following the pricing mechanism and settlement principles pursuant to Article 44.

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Art. 42.8	disagree	It should be clarified that the task of local market operation can only be fulfilled by parties which fulfil a set of basic requirements in order to guarantee a safe and robust market operation.	8. System operators may delegate the task of local market operation through a non-discriminatory selection process. The requirements for local market operation shall include at least: a. neutrality and transparency in case that several system operators, service providers or stakeholders are involved; b. technical, personal, operational and organisational expertise and resources with regard to the operation of local markets; c. appropriate market surveillance arrangements in place in compliance with Article 15 of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency as amended by Regulation (EU) No 2024/1106 of 11 April 2024; and d. Any third party which acts as market operator of local services shall be fully unbundled full unbundling from the market activities of production and supply.
Art. 43.1	strongly disagree	In countries with portfolio bidding it is not possible to establish such a link between the existing wholesale markets (day-ahead, intraday, balancing markets) and the local flexibility services. One reason for this is that there are not locational tags in single intraday and single day-ahead markets (SDAC and SIDC).	1.If bids offered in day-ahead, intraday and balancing markets are used for solving congestion issues or voltage issues, the rules for the market-based procurement of local services pursuant to Article 41 shall specify the process for this:
Art. 43.2	strongly disagree	From the paragraph it remains unclear for what purpose bids shall be forwarded and under which conditions. This scheme raises more questions than it provides solutions, such as on roles, responsibilities, contractual relationships (e.g. membership with exchanges), cost structure (e.g. collaterals when relevant), and level playing field with other market participants. The Network Code should focus on facilitating revenue stacking, not proposing a solution (bid forwarding) that has not been thought through.	2.Each service provider shall be allowed to submit the same bid its flexibility capacity or flexibility energy in several markets to all markets to foster value stacking, but this bid shall not be selected twice. When a bid has not been selected in a market, or the service for which the bid was selected is no longer needed, the service provider shall be allowed to submit this bid its flexibility capacity or flexibility energy to another market. Each service provider shall be allowed to register a controllable unit in different SPGs for different services, following the requirements to ensure that there is no double activation of this controllable unit for the same imbalance settlement period. National BRP rules ensure that market participants are balanced until delivery.
Art. 48.1	strongly disagree	It is unclear how a product from day-ahead or intraday can be used for congestion management. The intraday and day-ahead product methodologies have been proposed by All NEMOs and approved by All NRAs. At least, an explicit reference to such products is neither required nor helpful.	1. The national terms and conditions for service providers shall include a list of congestion management and voltage control products. If products from day-ahead or intraday markets or balancing products are used for congestion management or voltage control, they shall be included in the list of products.

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Art. 49.6 (c)	strongly disagree	The rules on (shared) ownership of storage facilities have to be based on the provisions of Directive (EU) 2019/944 (Electricity Directive) as well as on the ACER Framework Guideline on Demand Response. The latter stipulate in paragraph 39 that "a derogation shall be preferred if economically efficient." The current draft of the NC DR inaccurately requires the SO to notify the NRA if shared ownership of the storage facility is "more economically efficient." Yet, there is no need to introduce such a comparative standard and to necessitate the SO to deliver proof of a relative economic efficiency.	(c) an assessment indicating whether shared ownership of the storage facility is a more economically efficient compared to full system operators' ownership , in case there is an offer for shared ownership.
Art. 55.2	disagree	Every SO should have access to all the data it needs to fulfill its duties. However, the collection of data that is not absolutely necessary to keep processes efficient should be avoided. Accordingly, the necessity of collecting the data should be justified when requested by the SO at which it is collected.	2. The DSO observability area shall include the DSO's own distribution system and the relevant parts of other distribution and transmission systems for which the DSO shall be entitled to receive structural, forecast, schedule and real-time data in accordance with Article 59, that are necessary to determine the condition of its own system with respect to relevant operational limits, to solve congestion or voltage issues and to maintain secure operation of its own system.
Art. 57.1 (e)	disagree	It has to be taken into consideration that different network operators have to coordinate if certain flexibilities can be activated by different network operators. This idea could be incorporated by referring to the national terms & conditions.	(e) shall be responsible conduct the tasks assigned to them in the national terms and conditions pursuant to Article 41 to arrange the activation of procured local services in an effective, reliable and cost-efficient manner and or to initiate actions to activate selected local services
Art 59.6	disagree	Every SO should have access to all the data it needs to fulfill its duties. However, the collection of data that is not absolutely necessary to keep processes efficient should be avoided. Accordingly, the necessity of collecting the data should be justified when requested by the SO at which it is collected. See also Art 61.3	6. Real-time data shall include available information about at least, if required: (a) ... (b) ... (c) ...