

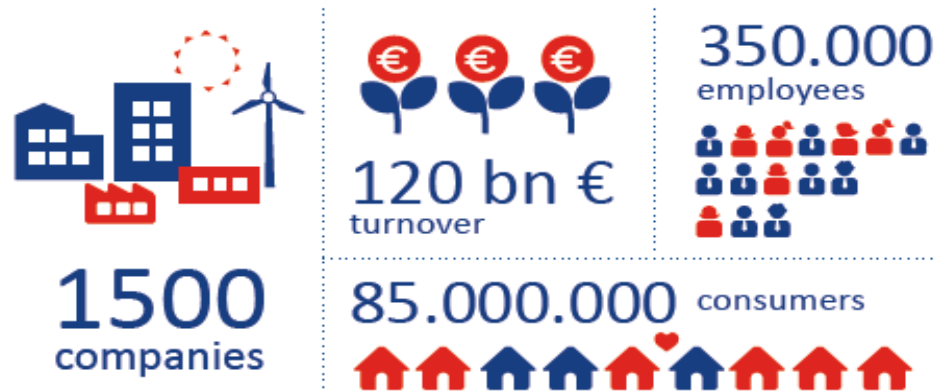


Proposal for a Directive on common rules for the internal market in electricity

CEDEC - Background information

CEDEC represents the interests of 1.500 local and regional energy companies with a total turnover of €120 billion, serving 85 million electricity and gas customers and connections, with more than 350.000 employees.

These predominantly medium-sized local and regional energy companies have developed activities as electricity and heat generators, as operators of distribution grids and metering systems for electricity, gas and heating & cooling, and as energy (services) suppliers.



The wide range of services provided by local utility companies is reliable, sustainable and close to the customer. Through their investments and local jobs, they make a significant contribution to local and regional economic development.

RECOMMENDATIONS FOR THE CLEAN ENERGY PACKAGE

CEDEC welcomes the European Union's goal to reconcile **ambitious energy and climate targets in a coherent legislative package** that will put energy efficiency first, stimulate more sustainable energy sources, and change the energy market design where necessary to deliver the energy transition at the lowest societal cost.

That is why CEDEC, the European Federation of Local Energy companies, supports the European Commission's objective of adapting different parts of the existing legislative framework to **deliver a more sustainable energy system**, built on citizens' engagement and customers' trust.

As local energy companies, operating close to citizens and customers, we believe in the need to **boost the local dimension**, not only through political messages but also with a legal and regulatory framework that incentivises decentralised and integrated solutions, linking electricity, gas and heating & cooling.

A particular challenge for a review of the market design is to **create a true level playing field** between established and new market actors, in both the generation and the supply of energy products and services. A competitive and flexible European internal energy market can only function if all actors – big and small – can participate actively, with a **clear definition of roles and responsibilities**.

An incentivising framework and an adequate toolbox have to be available for the **Distribution System Operator (DSO) as market facilitator** in a decentralising energy system : with 90% of renewable energy sources connected to the distribution grids, the balancing of demand and supply becomes an increasingly local issue. Also, detailed information on all grid elements and on the customers connected to the grid becomes essential raw materials for smart grid management.

DSOs must be able to acquire the flexibility they need for the grid management, through **flexibility services** or different forms of **energy storage**. They can procure it on the market when competitively priced and well-targeted services are available; if not, they can contract flexibility directly with interested customers and local generators, or own and operate the necessary storage assets in the grid.

EU legislation must find the right **balance between market-based approaches**, that can contribute to lower costs and innovation, **and effective regulation**, which is at times needed to overcome market failures and to achieve objectives of general social and economic interest.

While considering a European dimension where appropriate, and supporting better interconnections where needed, Member States must be allowed to take into account the characteristics of their national energy landscape, with its current and future energy mix, with the potential of renewable and local resources, and with the existing details of market design.

Subsidiarity, along with **proportionality** of EU legislation, will be key to achieving a cost-efficient decentralising energy market that delivers for local authorities, citizens and customers.

Proposal for a revised Electricity Directive

Article	Text proposed by the Commission	CEDEC amendment
<p>Recital (14)</p> <p>Public Service Obligations</p>	<p>Member States should maintain a wide discretion to impose public service obligations on electricity undertakings in pursuing objectives of general economic interest. (...)</p> <p>Nevertheless, public service obligations in the form of supply price regulation constitute a fundamentally distortive measure that often leads to the accumulation of tariff deficits, limitation of consumer choice, poorer incentives for energy saving and energy efficiency investments, lower standards of service, lower levels of consumer engagement and satisfaction, restriction of competition as well as fewer innovative products and services on the market. Consequently, Member States should apply other policy tools, and in particular targeted social policy measures, to safeguard the affordability of electricity supply to their citizens. Interventions in price setting should only be applied in limited exceptional circumstances. A fully liberalised retail electricity market would stimulate price and non-price competition among existing suppliers and incentivise new market entries therefore improving consumers' choice and</p>	<p>Member States should maintain a wide discretion to impose public service obligations on electricity undertakings in pursuing objectives of general economic interest. (...)</p> <p>Nevertheless, public service obligations in the form of supply price regulation can contribute to consumer protection in well-defined situations. Consequently, Member States should develop the necessary policy tools, and in particular targeted energy policy and/or social policy measures, to safeguard the affordability of electricity supply to their citizens. A competitive retail electricity market can stimulate price and non-price competition among existing suppliers and incentivise new market entries therefore improving consumers' choice and satisfaction.</p>

	satisfaction.	
<p>Justification:</p> <p>Supply price regulation should not be excluded as a principle, but should be allowed in the customer's interest under specific circumstances :</p> <ul style="list-style-type: none">- if the generation or supply market is not well functioning or is dominated by one or a very limited number of market actors (according to the HHI-index).- for targeted and well-defined categories of customers (vulnerable customers, energy poverty).		

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 3.1 Competitive electricity market</p>	<p>(...) electricity prices reflect actual demand and supply.</p>	<p>(...) electricity prices generally reflect demand and supply.</p>
<p>Justification :</p> <p>The formulation should not exclude any form of regulated prices (→ add “generally”) – cf. article 5. Also, it should avoid to oblige Member States to apply real time pricing for all customers even if the necessary instruments (smart meters and real time communication of consumption data) are not available (→ delete “actual”).</p>		

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 5</p> <p>Market-based supply prices</p>	<p>1. Electricity suppliers shall be free to determine the price at which they supply electricity to customers. Member States shall take appropriate actions to ensure effective competition between electricity suppliers.</p> <p>2. Member States shall ensure the protection of energy poor or vulnerable customers in a targeted manner by other means than public interventions in the price-setting for the supply of electricity.</p> <p>3. By way of derogation from paragraphs 1 and 2, Member States who apply public interventions in price setting for the supply of electricity for energy poor or vulnerable household customers at the date of entry into force of this Directive may continue to apply such public interventions during five years from the entry into force of this Directive. Such public interventions shall pursue a general economic interest, be clearly defined, transparent, non-discriminatory, verifiable and guarantee equal access for Union electricity companies to customers. The interventions shall not go beyond what is necessary to achieve the general economic interest which they pursue, be limited in time and proportionate as regards their beneficiaries.</p>	<p>1. Electricity suppliers shall in general be free to determine the price at which they supply electricity to customers. Member States shall take appropriate actions to ensure effective competition between electricity suppliers</p> <p>2. Member States shall ensure the protection of energy poor or vulnerable customers in a targeted manner for the supply of electricity.</p> <p>3. Member States may apply public interventions in price setting for the supply of electricity for energy poor or vulnerable household customers. Such public interventions shall pursue a general economic interest, be clearly defined, transparent, non-discriminatory, verifiable and guarantee equal access for Union electricity companies to customers. The interventions shall not go beyond what is necessary to achieve the general economic interest which they pursue, and be proportionate as regards their beneficiaries.</p>

	<p>4. After the period referred to in paragraph 3, Member States may still apply public interventions in the price-setting for the supply of electricity for vulnerable household customers in so far as it is strictly necessary for reasons of extreme urgency. Such interventions shall comply with the conditions set out in paragraph 3.</p> <p>Member States shall notify the measures taken in accordance with the first subparagraph to the Commission within one month after adoption and may apply them immediately. The notification shall be accompanied by an explanation why other instruments could not sufficiently address the situation and how the beneficiaries and the duration of the measure have been determined. The notification shall be considered as complete if, within two months from its receipt, or from the receipt of any additional information requested, the Commission does not request any further information.</p> <p>The Commission may take a decision asking the national authorities to amend or withdraw the measures within two months from receipt of a complete notification where it considers that the requirements set out in the first subparagraph are not fulfilled. The decision-making period can be extended with the consent of both the Commission and the Member State concerned.</p> <p>The public intervention applied on the basis of this paragraph shall be deemed valid as long as the Commission has not taken a Decision asking the national authorities to amend or withdraw</p>	<p><i>Delete</i></p>
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	the measure.	
<p>Justification:</p> <p>From the perspective of the interest of the customer, Member States can decide on the conditions for application of forms of regulated prices (like social tariffs or tariff reductions) for clearly defined categories of customers, especially vulnerable customers, and not limited to a specific period of time.</p>		

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 11.1 Entitlement to a dynamic price contract</p>	<p>1. Member States shall ensure that every final customer is entitled, on request, to a dynamic electricity price contract by his supplier.</p>	<p>1. Member States shall ensure that every final customer is free to choose a dynamic electricity price contract on the market.</p>
<p>Justification:</p> <p>It is proposed that every customer shall be entitled to a dynamic price contract with his current supplier. The “right” should become an “option”, given the potential high cost for a supplier to develop such an offer for a single customer. Also, it should not be explicitly limited to the current supplier, in order to let the market function most efficiently and to stimulate market development in this field.</p>		

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 16.1</p> <p>Local Energy Community</p>	<p>1. Member States shall ensure that local energy communities:</p> <p>(a) are entitled to own, establish, or lease community networks and to autonomously manage them;</p> <p>(...)</p> <p>(c) benefit from a non-discriminatory treatment with regard to their activities, rights and obligations as final customers, generators, distribution system operators or aggregators;</p> <p>(...)</p>	<p>1. Member States shall ensure that local energy communities:</p> <p>(a) are entitled to own, establish, or lease community networks and to autonomously manage them, while ensuring that general standards and requirements on security, safety and quality are respected;</p> <p>(...)</p> <p>(c) benefit from a non-discriminatory treatment with regard to their activities, and are subject to equal rights and obligations as final customers, generators, distribution system operators, or aggregators;</p> <p>(...)</p>
<p>Justification :</p> <p>The possibilities offered by distributed generation and new technological applications and the need to stimulate more sustainable energy sources both lead to a large potential for local energy communities. In order to continue to guarantee security of supply for the whole energy system and solidarity between all energy consumers, accompanying measures have to be taken:</p> <ul style="list-style-type: none"> - Align standards and requirements for security, safety and quality for the local grid operation (in (a)); - Ensure a level playing field with actors in the energy system - same rights and obligations (in (c)). 		

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 16.2 Local Energy Community</p>	<p>2. Member States shall provide an enabling regulatory framework that ensures that: (...)</p> <p>(h) where relevant local energy communities are subject to appropriate network charges at the connection points between the community network and the distribution network outside the energy community.</p>	<p>2. Member States shall provide an enabling regulatory framework that ensures that: (...)</p> <p>(h) where relevant local energy communities are subject to appropriate network charges at the connection points between the community network and the distribution network outside the energy community;</p> <p>(i) a procedure and conditions for approval of the local energy community are in place, including conditions on the use of the public domain;</p> <p>(j) solidarity between the users of the distribution grid as backbone for the security of supply is guaranteed, inter alia through the application of capacity elements in distribution tariffs.</p>
<p>Justification:</p> <p>The possibilities offered by distributed generation and new technological applications and the need to stimulate more sustainable energy sources both lead to a large potential for local energy communities. In order to continue to guarantee security of supply for the whole energy system and solidarity between all energy consumers, accompanying measures have to be taken:</p> <ul style="list-style-type: none"> - Develop a procedure and conditions for approval of the local energy community, including conditions on the use of the public domain (in new (i)); - Guarantee solidarity between users of the grid as backbone for the security of supply, inter alia through adapted financing of distribution grids by introducing capacity elements in distribution tariffs (in new (j)) 		

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 17 Demand response</p>	<p>3. Member States shall ensure that their regulatory framework encourages the participation of aggregators in the retail market and that it contains at least the following elements: (...)</p> <p>4. In order to ensure that balancing costs and benefits induced by aggregators are fairly assigned to market participants, Member States may exceptionally allow compensation payments between aggregators and balancing responsible parties. Such compensation payments must be limited to situations where one market participant induces imbalances to another market participant resulting in a financial cost. Such exceptional compensation payments shall be subject to approval by the national regulatory authorities and monitored by the Agency.</p>	<p>3. Member States shall ensure that their regulatory framework allows for the participation of aggregators in the retail market and that it contains at least the following elements: (...)</p> <p>4. In order to ensure that balancing costs and benefits induced by aggregators are fairly assigned to market participants, Member States will establish rules on the compensation payments between aggregators and other balancing responsible parties. Such compensation payments must be limited to situations where one market participant induces imbalances to another market participant resulting in a financial cost. Such compensation payments shall be subject to approval by the national regulatory authorities and monitored by the Agency.</p>
<p>Justification:</p> <p>17.3 : In a level playing field that should be guaranteed in a market environment, it seems strange that the regulatory framework would install positive discrimination by “encouraging” one specific market party.</p> <p>17.4 : Compensation payments between aggregators and balance responsible parties have to be verified on their structural (and not ‘exceptional’) character. It should be clarified that aggregators also have balancing responsibility.</p>		

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 19.3 Smart metering</p>	<p>3. Member States that proceed with deployment shall adopt and publish the minimum functional and technical requirements for the smart metering systems to be rolled out in their territories in line with the provisions laid down in Article 20 and Annex III.</p>	<p>3. Member States that proceed with deployment shall adopt and publish the minimum functional and technical requirements for the smart metering systems to be rolled out in their territories in line with the provisions laid down in Article 20 and Annex III, while taking into account the existing functionalities of already installed smart metering systems.</p>
<p>Justification:</p> <p>New requirements for smart metering systems (cf. the reference to the smart metering functionalities in Article 20) should be carefully assessed before being imposed, in order to avoid costly retrofitting of already installed smart metering systems.</p>		

Article	Text proposed by the Commission	CEDEC amendment
<p style="text-align: center;">Article 23</p> <p style="text-align: center;">Data management</p>	<p>1. When setting up the rules regarding the management and exchange of data, Member States or, where a Member State has so provided, the designated competent authorities shall specify the eligible parties which may have access to data of the final customer with their explicit consent in accordance with Regulation (EU) 2016/679. For the purpose of this Directive, data shall include metering and consumption data as well as data required for consumer switching. Eligible parties shall include at least customers, suppliers, transmission and distribution system operators, aggregators, energy service companies, and other parties which provide energy or other services to customers.</p> <p>2. Member States shall organise the management of data in order to ensure efficient data access and exchange. Independently of the data management model applied in each Member State, the party or parties responsible for data management shall provide to any eligible party with the explicit consent of the final customer, access to the data of the final customer. Eligible parties should have at their disposal in a non-discriminatory manner and simultaneously the requested data. Access to data shall be easy, while relevant procedures shall be made publicly available.</p>	<p>1. When setting up the rules regarding the management and exchange of data, Member States or, where a Member State has so provided, the designated competent authorities shall specify the eligible parties which may have access to data of the final customer in accordance with Regulation (EU) 2016/679. For the purpose of this Directive, data shall include metering and consumption data as well as data required for consumer switching. Eligible parties shall include at least customers, suppliers, transmission and distribution system operators, aggregators, energy service companies, and other parties which provide energy or other services to customers.</p> <p>2. Member States shall organise the management of data in order to ensure efficient data access and exchange. Independently of the data management model applied in each Member State, the party or parties responsible for data management shall provide to any eligible party access to the data of the final customer in accordance with Regulation (EU) 2016/679. Eligible parties should have at their disposal in a non-discriminatory manner and simultaneously the requested data. Access to data shall be easy, while relevant procedures shall be made publicly available.</p>

Justification:

The General Data Protection Regulation EU 2016/679 that is mentioned in paragraph 1, contains precise rules on access to data of final customers and on customer consent. The same formulation can be used in paragraph 2.

In any case it should be taken into account that data access should not depend on customer consent if absolutely necessary for operational reasons (like grid operators that need access to data for operational management of the grid).

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 24 Data format</p>	<p>2. The Commission, by means of implementing acts adopted in accordance with the advisory procedure referred to in Article 68, shall determine a common European data format and non-discriminatory and transparent procedures for accessing the data, listed under paragraph 1 of Article 23, that will replace national data format and procedure adopted by Member States in accordance with paragraph 1. Member States shall ensure that market participants apply a common European data format.</p>	<p><i>Delete</i></p>
<p>Justification:</p> <p>A common data system per Member State, as proposed in art 24.1, is effective and cost-efficient. However, the Commission proposes in paragraph 2 – whatever the Member State has defined according to paragraph 1 - a common European data format and common procedures for data access. This would represent a huge cost as all existing data communication systems and platforms would have to be adapted or replaced. This option was described in the Impact Assessment as too costly and inefficient. → Proposal to delete article 24.2</p>		

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 32</p> <p>DSO – Use of flexibility</p>	<p>1. Member States shall provide the necessary regulatory framework to allow and incentivise distribution system operators to procure services in order to improve efficiencies in the operation and development of the distribution system, including local congestion management. In particular, regulatory frameworks shall enable distribution system operators to procure services from resources such as distributed generation, demand response or storage and consider energy efficiency measures, which may supplant the need to upgrade or replace electricity capacity and which support the efficient and secure operation of the distribution system. Distribution system operators shall procure these services according to transparent, non-discriminatory and market based procedures.</p> <p>(...)</p> <p>Distribution system operators shall be adequately remunerated for the procurement of such services (...).</p>	<p>1. Member States shall provide the necessary regulatory framework to allow and incentivise distribution system operators to use all sources of flexibility in the (local) energy system in order to improve efficiencies in the operation and development of the distribution system, including local congestion management. In particular, regulatory frameworks shall enable distribution system operators to procure services from resources such as distributed generation, demand response or storage and consider energy efficiency measures, which may supplant the need to upgrade or replace electricity capacity and which support the efficient and secure operation of the distribution system. If a competitive market for these services is locally available, distribution system operators shall procure these services according to transparent, non-discriminatory and market based procedures.</p> <p>(...)</p> <p>Distribution system operators shall be adequately remunerated for the use of flexibility and the procurement of such services (...).</p>
<p>Justification:</p> <p>As energy supply becomes increasingly distributed - produced in smaller quantities and closer to customers - the balancing of demand and supply becomes an increasingly local issue. To avoid congestion on local grids, DSOs must be able to organise the flexibility they need, through all possible</p>		

sources of flexibility that are available in the (local) energy system.

If markets deliver flexibility services locally – perfectly addressing the very local flexibility needs of the DSO - and at competitive prices, DSOs should procure these services on the market; if not, direct contracts with flexibility providers should be allowed.

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 33</p> <p>DSO – Integration of electro-mobility</p>	<p>2. Member States may allow distribution system operators to own, develop, manage or operate recharging points for electric vehicles only if the following conditions are fulfilled:</p> <p>(a) other parties, following an open and transparent tendering procedure, have not expressed their interest to own, develop, manage or operate recharging points for electric vehicles;</p> <p>(...)</p> <p>4. Member States shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to own, develop, operate or manage recharging points for electric vehicles. In case the public consultation indicates that third parties are able to own, develop, operate or manage such points, Member States shall ensure that distribution system operators' activities in this regard are phased-out.</p>	<p>2. Member States may allow distribution system operators to own, develop, manage or operate public recharging points for electric vehicles if at least one of the following conditions are fulfilled:</p> <p>(a) other parties, following an open and transparent tendering procedure, have not expressed their interest to own, develop, manage or operate recharging points for electric vehicles at competitive prices, while guaranteeing geographical coverage in the area served by the DSO;</p> <p>(...)</p> <p>4. Member States shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to own, develop, operate or manage public recharging points for electric vehicles at competitive prices, while guaranteeing geographical coverage in the area served by the DSO. In case the public consultation indicates that third parties are able to own, develop, operate or manage such points, Member States may decide that distribution system operators' activities in this regard are phased-out, taking into account the coverage of stranded costs.</p>
<p>Justification:</p> <p>The proposal does not bring a solution for the chicken & egg problem associated with electric vehicles (EV), i.e. not sufficient EVs because of</p>		



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insufficient public charging infrastructure, and vice versa. Therefore, it does not guarantee geographical coverage, thus not addressing the range anxiety that is the major hurdle for EV development.

In order to contribute to the market uptake of electric transport, to the geographical coverage of charging infrastructure, and to the use of EVs as a flexible storage solution, DSOs can enable the deployment of public recharging infrastructure for EV.

When deciding on the phasing out of the charging infrastructure activity of the DSO, the coverage of stranded costs must be taken into account.

Article	Text proposed by the Commission	CEDEC amendment
<p>Article 36</p> <p>DSO - Ownership of storage facilities</p>	<p>1. Distribution system operators shall not be allowed to own, develop, manage or operate energy storage facilities.</p> <p>2. By way of derogation from paragraph 1, Member States may allow distribution system operators to own, develop, manage or operate storage facilities only if the following conditions are fulfilled:</p> <p>(a) other parties, following an open and transparent tendering procedure, have not expressed their interest to own, develop, manage or operate storage facilities;</p> <p>(b) such facilities are necessary for the distribution system operators to fulfil its obligations under this regulation for the efficient, reliable and secure operation of the distribution system; and</p> <p>(c) the regulatory authority has assessed the necessity of such derogation taking into account the conditions under points (a) and (b) of this paragraph and has granted its approval.</p> <p>3. Articles 35 and Article 56 shall apply to distribution system</p>	<p>1. Member States shall provide the necessary regulatory framework to facilitate the integration and use of cost-efficient storage resources in the energy distribution systems.</p> <p>2. Member States may allow distribution system operators to own, develop, manage or operate storage facilities if at least one of the following conditions are fulfilled:</p> <p>(a) other parties, following an open and transparent tendering procedure, have not expressed their interest to own, develop, manage or operate local storage facilities at competitive prices;</p> <p>(b) such facilities are necessary for the distribution system operators for the efficient, reliable and secure operation of the distribution system; and</p> <p>(c) the regulatory authority has granted its approval.</p> <p><i>Delete</i></p>

	<p>operators engaged in ownership, development, operation or management of energy storage facilities.</p> <p>4. Regulatory authorities shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to invest, develop, operate or manage energy storage facilities. In case the public consultation indicates that third parties are able to own, develop, operate or manage such facilities, Member States shall ensure that distribution system operators' activities in this regard are phased-out.</p>	<p>4. Regulatory authorities shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to invest, develop, operate or manage local energy storage facilities at competitive prices. In case the public consultation indicates that third parties are able to own, develop, operate or manage such facilities at competitive prices, Member States may decide that distribution system operators' activities in this regard are phased-out, taking into account the coverage of stranded costs.</p>
<p>Justification :</p> <p>On 36.1 : Energy storage – which is more than batteries - is an option for increasing the cost-efficient reliability of smart distribution grids while avoiding congestion and maintaining system stability. Therefore, Member States shall provide the necessary regulatory framework to facilitate the integration and use of cost-efficient storage resources in the energy distribution systems for grid management purposes. This will cost-efficiently ensure security of supply and will contribute to the further development of renewables.</p> <p>On 36.2 : DSOs should be allowed to deploy local storage capacity as a tool for flexibility to manage short term unpredictable fluctuations to avoid local congestion, if this is the most efficient grid solution. When storage services are available on the market that cover local flexibility needs of DSOs at competitive prices over a long period of time, market-based procedures shall be followed.</p> <p>On 36.3 : Imposing legal unbundling on storage activities of DSOs (if this is what is meant) is a measure beyond reasonable proportion, especially as storage assets are considered here as an integral part of the distribution grid.</p> <p>On 36.4 : When deciding on the phasing out of DSO activities in storage, the coverage of stranded costs must be taken into account.</p>		