



An Coimisiún  
um Rialáil Fónais  
**Commission for  
Regulation of Utilities**

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# Consultation on Energy Communities and Active Consumers

## Consultation Paper

<b>Reference:</b>	CRU/21028	<b>Date Published:</b>	05/03/21	<b>Closing Date:</b>	16/04/21
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## Executive Summary

The Clean Energy for all Europeans Package (CEP) contains provisions for the empowerment of individuals and groups of consumers seeking to participate in the electricity sector. Electricity Directive (EU) 2019/944 labels these consumer groups as ‘active customers’ and ‘citizen energy communities’ whereas Renewables Directive (EU) 2018/2001 identifies these consumers as ‘renewable self-consumers’ and ‘renewable energy communities.’

This Consultation follows on from the Calls for Evidence on Active Consumers and Energy Communities which the CRU published in August 2020. These papers consolidated the topics of ‘active customers’ and ‘renewable self-consumers’ into ‘active consumers’ and the topics of ‘citizen energy communities’ and ‘renewable energy communities’ into ‘energy communities.’

The purpose of this Consultation is to discuss specific topics, present proposals and raise some high-level questions on subjects which were identified as important during the Calls for Evidence process. It is expected that any uncertainty around these topics may impact the development of an enabling regulatory framework for active consumers and energy communities.

The CRU aims to provide a transparent process for introducing each of these topics into the regulatory framework and is using this paper to allow for responses and input from industry and stakeholders on these topics. This will also allow the CRU to fulfil the provisions in each of the Directives which requires an enabling regulatory framework to be in place to encourage participation by market actors in these new activities. The topics of this Consultation are outlined in the following table.

No.	Topic	Description
1	Identification of Energy Activities	This paper provides a list of all the potential energy activities outlined in the Directives. The treatment of market actors engaged in these activities will be addressed in a future Consultation.
2	Consumer Protection and Regulatory Oversight	To ensure consumer protections are upheld, market actors engaged in new energy activities need to adhere to dispute settlement decisions by the CRU. A legislative basis to enforce settlement decisions may be needed as part of the Directive transposition process.
3	Aggregators	The Directive contains criteria for the participation by independent aggregators. This Consultation raises a question on how to enable efficient participation by aggregators in the electricity sector.

4	Geographic Boundaries	Proximity requirements are detailed for renewable energy communities, but not for citizen energy communities. This could create a distinction in the way energy communities are classified.
5	Data Protection and Access	New market actors are anticipated to be subject to the existing data requirements that currently apply to regulated entities.
6	Energy Sharing and Trading	Energy sharing and trading should be allowed by active consumers and energy communities. This paper highlights the differences between virtual energy sharing, physical energy sharing, physical energy trading and virtual energy trading.
7	Consumer Information	Consumers should be able to have access to materials to allow them to make informed decisions on what it means to partake in the electricity sector as an active consumer or as part of an energy community.
8	Barriers	The Department for the Environment, Climate and Communications (DECC) requested the CRU to address the topic of barriers beyond the regulatory scope. Responses to the questions raised on this topic should be sent to <a href="mailto:CommunityRESS@DECC.gov.ie">CommunityRESS@DECC.gov.ie</a> .

Comments and feedback on the proposals and questions raised in Sections Two and Three of this Consultation are welcome from interested stakeholders and individuals. This Consultation will be open until 16 April 2021 and responses can be sent to [CEPinfpapers@cru.ie](mailto:CEPinfpapers@cru.ie).

## Public Impact Statement

This Consultation has been published to request feedback on topics considered to have an impact on the development of an enabling regulatory framework for active consumers and energy communities. The development of this framework is a requirement of the Electricity and Renewables Directives of the Clean Energy Package.

This Consultation follows on from the Calls for Evidence on Active Consumers and Energy Communities which were published in August 2020. The Call for Evidence on Active Consumers introduced the concepts of active consumers, which merged the definitions of ‘active customers’ and ‘renewable self-consumers’ from the Electricity Directive and Renewables Directive, respectively. Similarly, the Call for Evidence on Energy Communities introduced the term energy communities in a regulatory construct. This encapsulated ‘citizen energy communities’ from the Electricity Directive and ‘renewable energy communities’ from the Renewables Directive. High-level definitions for active consumers and energy communities are provided below.

**Active Consumer:** an individual who

- generates renewable energy for their own consumption, or
- sells or stores excess generated electricity, or
- participates in energy efficiency schemes, or
- provides flexibility services,

provided these activities are not their primary profession.

**Energy Community:** a group of active consumers, who voluntarily commit to providing environmental, social, or economic welfare by engaging in

- renewable energy generation,
- energy sharing or trading,
- storage, or
- supply,

provided these activities are not for commercial purposes and do not constitute the primary profession of the members of the community.

The purpose of this Consultation is to present several topics for which further discussion was considered necessary prior to the implementation of the requirements in the Directives. These topics were identified while reviewing the responses to the Calls for Evidence and from additional discussions held with stakeholders.

The CRU aims to ensure that the approach taken to implement a regulatory framework for active consumers and energy communities is a transparent one, and one where there are high levels of engagement with both industry and potential new market actors. This aims to ensure that any approach taken to implement the requirements outlined in the Directives strives to meet the expectations of the consumers and market actors who will be the key participants in the emerging markets and new energy activities.

## **CRU Mission Statement**

The CRU's mission is to protect the public interest in Water, Energy and Energy Safety.

The CRU is guided by four strategic priorities that sit alongside the core activities we undertake to deliver on the public interest. These are:

- Deliver sustainable low-carbon solutions with well-regulated markets and networks
- Ensure compliance and accountability through best regulatory practice
- Develop effective communications to support customers and the regulatory process
- Foster and maintain a high-performance culture and organisation to achieve our vision

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## Glossary of Terms and Abbreviations

Abbreviation or Term	Definition or Meaning
<b>Active Consumer</b>	CRU Term to combine the concepts of <i>Active Consumer</i> from the Electricity Directive and <i>Renewable Self-Consumer</i> from the Renewable Directive
<b>CEC</b>	Citizen Energy Community
<b>CEP</b>	Clean Energy Package
<b>CRU</b>	Commission for the Regulation of Utilities
<b>DECC</b>	Department for the Environment, Climate and Communications
<b>DSO</b>	Distribution System Operator
<b>Electricity Directive</b>	Directive (EU) 2019/944 on common rules for the internal market for electricity
<b>Energy Community</b>	CRU Term to combine the concepts of Citizen Energy Communities from the Electricity Directive and Renewable Energy Community from the Renewable Directive
<b>ESBN</b>	Electricity Supply Board Networks
<b>GDPR</b>	General Data Protection Regulation
<b>REC</b>	Renewable Energy Community
<b>Renewable Directive</b>	Directive (EU) 2018/20018 on promotion of use of energy from renewable sources
<b>SEAI</b>	Sustainable Energy Authority of Ireland
<b>VPP</b>	Virtual Power Plant

# 1. Introduction

## 1.1 Background

The Clean Energy for all Europeans Package (CEP) aims to facilitate consumer empowerment in the energy transition. Consumer participation in the energy sector is encouraged through numerous requirements written in the various legislative files of the package. The two documents which contain the most encouragement for consumer participation are the Directive for the internal markets for electricity (EU) 2019/944<sup>1</sup> (the ‘Electricity Directive’) and the Directive on the promotion of use of energy from renewable sources<sup>2</sup> (EU) 2018/2001 (the ‘Renewables Directive’).

Contained in both Directives are provisions which are aimed at individually acting consumers or groups of consumers to increase their participation in the energy sector. Article 2 of the Electricity Directive<sup>3</sup> contains the following two definitions for these consumer groups with further provisions outlined in Articles 15 and 16 of the same Directive<sup>4,5</sup>.

**‘active customer’** means a final customer, or a group of jointly acting final customers, who consumes or stores electricity generated within its premises located within confined boundaries or, where permitted by a Member State, within other premises, or who sells self-generated electricity or participates in flexibility or energy efficiency schemes, provided that those activities do not constitute its primary commercial or professional activity.

**‘citizen energy community’** means a legal entity that:

- (a) is based on voluntary and open participation and is effectively controlled by members or shareholders that are natural persons, local authorities, including municipalities, or small enterprises;
- (b) has for its primary purpose to provide environmental, economic, or social community benefits to its members or shareholders or to the local areas where it operates rather than to generate financial profits; and,
- (c) may engage in generation, including from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services or charging services for electric vehicles or provide other energy services to its members or shareholders.

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<sup>1</sup> [Directive \(EU\) 2019/944](#) on the internal market for electricity

<sup>2</sup> [Directive \(EU\) 2018/2001](#) on the promotion of use of energy from renewable sources

<sup>3</sup> [Article 2\(8\)](#) and [2\(11\)](#) Definitions of Directive (EU) 2019/944

<sup>4</sup> [Article 15](#) Active customers of Directive (EU) 2019/944

<sup>5</sup> [Article 16](#) Citizen Energy Communities of Directive (EU) 2019/944

Similarly, the Renewables Directive also contains definitions on individuals and consumer groups participating in the energy sector. The following definitions are extracted from Article 2 of the Renewables Directive<sup>6</sup>. Further rights, entitlements and obligations for these consumers are outlined in Article 21 and 22 of the Renewables Directive<sup>7,8</sup>.

**‘renewables self-consumer’** means a final customer operating within its premises located within confined boundaries or, where permitted by a Member State, within other premises, who generates renewable electricity for its own consumption, and who may store or sell self-generated renewable electricity, provided that, for a non-household renewables self-consumer, those activities do not constitute its primary commercial or professional activity.

**‘jointly acting renewables self-consumers’** means a group of at least two jointly acting renewables self-consumers in accordance with the definition on renewable self-consumers, who are located in the same building or multi-apartment block.

**‘renewable energy community’** means a legal entity:

- (a) which, in accordance with the applicable national law, is based on open and voluntary participation, is autonomous, and is effectively controlled by shareholders or members that are located in the proximity of the renewable energy projects that are owned and developed by that legal entity;
- (b) the shareholders or members of which are natural persons, SMEs or local authorities, including municipalities;
- (c) the primary purpose of which is to provide environmental, economic or social community benefits for its shareholders or members or for the local areas where it operates, rather than financial profits.

The CRU first explored these concepts with industry and interested stakeholders through two Calls for Evidence<sup>9,10</sup> in September 2020. These papers provided the legislative background for these new market actors and raised questions for feedback on some initial considerations and concerns the CRU had around the benefits and risks associated with development in these areas. These papers also combined the concepts from the two Directives and introduced the terminology of the *active consumer* to jointly address topics of active customers and

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<sup>6</sup> [Article 2\(14\), 2\(15\) and 2\(16\)](#) of Directive (EU) 2018/2001

<sup>7</sup> [Article 21](#) Renewable self-consumers of Directive (EU) 2018/2001

<sup>8</sup> [Article 22](#) Renewable energy communities of Directive (EU) 2018/2001

<sup>9</sup> [CRU/20/098](#) Call for Evidence on Active Consumers

<sup>10</sup> [CRU/20/099](#) Call for Evidence on Energy Communities

renewable self-consumers, and *energy communities* to combine the review of citizen energy communities and renewable energy communities. These concepts are further clarified below.

**Active Consumer:** an individual who

- generates renewable energy for their own consumption, or
- sells or stores excess generated electricity, or
- participates in energy efficiency schemes, or
- provides flexibility services,

provided these activities are not their primary profession.

**Energy Community:** a group of active consumers, who voluntarily commit to providing environmental, social, or economic welfare by engaging in

- renewable energy generation,
- energy sharing or trading,
- storage, or
- supply,

provided these activities are not for commercial purposes and do not constitute the primary profession of the members of the community.

The CRU reviewed the responses to the Calls for Evidence and subsequently engaged in further analysis and discussions with industry stakeholders to better understand the benefits and risks associated with facilitating participation of these consumer groups into the Irish electricity sector. These exercises form the basis for this Consultation, which aims to consider how to best situate these actors in the Irish context and discuss how to establish them as market actors in the CRU's regulatory framework.

The inclusion of new market actors and the introduction of new energy activities into the energy sector represents how the Irish electricity market will support the move to a low-carbon economy. The transition away from business-as-usual scenarios where the network operators make central decisions for the electricity sector, towards more decentralised arrangements where individuals have an active role in managing their energy usage shows the adaption that must occur to facilitate the clean energy transition towards a cleaner energy future.

## 1.2 Purpose of this Consultation

There are requirements in both Directives for the regulatory authority of a Member State to ensure there is an enabling regulatory framework to encourage the development of energy communities and encourage participation by active consumers.

This Consultation paper raises a number of proposals which the CRU believes would help develop that enabling framework in Ireland. There are already many progressive projects in Ireland which fall under the scope of active consumers and energy communities; however, the CRU aims to ensure that the opportunity to participate in these types of energy activities is available to all interested individuals and groups of consumers. Additionally, the scope of new projects should not be limited to what could be considered traditional concepts of microgeneration by individuals and self-generation and consumption by energy communities.

This paper contains eight topics for which the CRU has determined further discussion is needed with stakeholders to gain a better understanding of how to implement the enabling framework in the most effective way. Each subsection in Section Two contain one or more proposals or questions for which feedback is requested by the CRU from interested parties.

Feedback on this Consultation can be provided to the Clean Energy Package Team at [CEPinfopapers@cru.ie](mailto:CEPinfopapers@cru.ie). This Consultation will close on 16 April 2021.

## **2. Proposals on an Enabling Regulatory Framework**

To develop an enabling regulatory framework, the CRU has determined that there are certain aspects of the existing market arrangements and some new topics which need to be discussed with stakeholders and potential new market actors before final decisions on the framework can be completed. The following sections outline these topics and present questions and proposals for which the CRU is requesting feedback from interested participants.

### **2.1 Identification of Energy Activities**

The responses to the Calls for Evidence highlighted the importance of identifying all the potential new energy activities which may be pursued by market actors. The aim is to first identify all potential activities, to then determine the appropriate mechanism to apply regulatory oversight to market actors engaged in these activities. It is clear from the Call for Evidence exercise that energy communities, active consumers and even new service providers should not be limited by a strict definition which would inhibit their ability to participate in multiple activities. However, these new market actors will still need to comply with the regulatory framework which is evolving to incorporate all energy activities outlined in the Directives. The CRU considers that it is appropriate to first define the types of activities rather than define the market actors themselves.

The CRU has explored several potential options on how to identify and group energy activities and was informed by a class-based system which was developed by the German Energy Regulator to categorize all new and existing market participants. The German approach outlines a tiered system which loosely labels the different consumer groups and service providers which would participate in the electricity sector.

The loose definitions provided around each class enable certain regulatory requirements to be defined for each type of activity but are also not overly prescriptive in a way that would limit innovation and development from the groups.

The CRU is proposing to follow a similar approach to identify and group market actors by their potential electricity activity uptake. The CRU considers that the regulatory requirements to be adhered to by market actors will be contingent on the types of electricity activity being pursued.

The determination of the regulatory requirements for each activity is anticipated to be the topic of a future Consultation, whereas the aim of the proposal in this paper is to first identify all the potential activities.

The proposal below lists the energy activities outlined in the Directives which may be pursued by new market actors. This list includes existing activities, as well as new ones for the purposes of completeness.

### Topic One: Identification of Energy Activities

**Proposal One:** The following list of energy activities has been identified to clearly outline all the activities which new and existing market actors may engage in following the transposition of the Directives.

- **Consumption\***
- **Generation\*** (including microgeneration)
- **Storage\***
- **Energy Sharing/Trading**
- **Supply\***
- **Demand-side response\***
- **Aggregation\***
- **Third-party services (development, installation, management, etc, of renewable energy products to active consumers or energy communities)**
- **Distribution Network Management (contingent on Electricity Directive transposition)**

\* Denotes existing market activities

**Question One:** Do you have any comments on the approach the CRU is proposing to take to use these energy activities listed above to form the basis for which a regulatory framework is applied to market actors engaged in these activities?

**Question Two:** Are there any additional energy activities which should be included in the list above?

## **2.2 Consumer Protection and Regulatory Oversight**

One of the main concerns understood from the Calls for Evidence regarded the topic of how regulatory oversight would be applied to new market actors engaged in new electricity activities. There were mixed responses, with some favouring a strong regulatory approach and others preferring that new market actors be less regulated to have room for further development and innovation.

Many of the responses pointed out that the level of regulatory oversight to be applied to new market actors should be proportional to the type and scale of electricity activity being pursued by the market participant. Nevertheless, there is also the necessity to maintain a level-playing field among existing and new market actors, where they are competing within the same market.

For example, this may mean that an individual active consumer who may be supplying electricity to their neighbours may have some of the same regulatory requirements as a conventional supplier, though there may be some further considerations to reflect the scale of the activity. In general, however, no final consumers should be put at risk due to a market actor's participation in the electricity sector, which implies that the neighbour being supplied electricity should have similar protections regardless of whether they are supplied by their neighbour or a conventional supplier.

Neither the Renewables Directive nor the Electricity Directive require new market actors to be licenced or outline a specific way to enforce regulatory requirements. This is a key area of focus; however, as it is one of the main functions of the CRU to monitor market participants and ensure that all appropriate consumer protections<sup>11</sup> are being upheld.

The existing regulatory framework primarily focuses on the generation and supply of electricity, requiring market actors engaged in these activities to apply for and hold a supply or generation licence to conduct their activities. Some of the energy activities outlined in the Directives, such as management of an energy community, have the potential to fall beyond the scope of supply and generation, and the current regulatory regime may not be applicable for these new types of activities.

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<sup>11</sup> The various consumer protections are outlined in Supplier's Codes of Practice, of which they are liable to comply with to provide services to final customers. The Codes of Practice cover topics such as complaint handling, billing, disconnections, vulnerable customers, customer sign-up, pay-as-you-go, etc. Suppliers develop Codes of Practice in line with the requirements outlined in the CRU's Electricity and Gas Supplier Handbook (CRU/19138) and must obtain approval by the CRU's Customer Care Team before they are utilised.

One of the regulatory tools currently being applied to uphold consumer protections is a dispute settling mechanism which is provided by the CRU's Customer Care Team (CCT). The CRU was appointed to be the point of contact for out-of-court dispute settlements in scenarios when an agreement could not be reached between the customer and the electricity service provider.

The CCT resolves complaints and disputes by assessing the claim against the supplier's Codes of Practice, which were developed to reflect the requirements contained in the CRU's Supplier Handbook and subsequently approved by the CCT. The CCT can issue directions to licenced entities to pay Charter Payments in situations where they uphold a customer's complaint.

The existence of the framework on which to base their decisions enables a transparent and structured approach to ensure consistency in their decision-making process. There is currently not a framework in place for new energy activities being offered by market actors and this could inhibit the ability of the CCT to effectively act as a dispute settlement mechanism.

Article 26<sup>12</sup> of the Electricity Directive has been revised from the Third Energy Package<sup>13</sup> to require that the out-of-court dispute settling mechanism applies to *all* the energy activities included in the Directive. The CRU would need to ensure that there is a mechanism in place that clarifies that the new electricity activities are captured in a regulatory framework. This would allow regulatory oversight and monitoring, and if needed, enforcement actions to be applied. Without this regulatory mechanism, the CRU could experience a possible gap in its regulatory framework, and in particular the CCT may not be able to fulfil its responsibility as a dispute settlement provider.

Additionally, the CRU's Compliance and Enforcement Team has authority to issue Directions and, where needed, Administrative Sanctions against licenced entities whose actions lead to consumer harm. New service providers who are interacting and conducting business with final customers should not be exempt from these directions where they are providing an electricity activity which falls under the scope of the CEP.

The CRU has communicated this need for some form of regulatory vires to efficiently regulate market actors engaged in new energy activities to DECC; however, the type of mechanism to

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<sup>12</sup> [Article 26](#) Right to out-of-court dispute settlement of Directive (EU) 2019/944

<sup>13</sup> [Annex I \(1\)\(f\)](#) Measures on Consumer Protection of Directive 2009/72/EC

be applied is being consulted on in this paper. The intent of the process is to develop an effective regulatory tool that strikes a balance between encouraging development and ensuring consumer protection and fills the potential regulatory gap for monitoring the delivery of these activities.

The following proposal outlines several regulatory mechanisms the CRU considers potential options for applying effective regulatory oversight to market actors engaging in activities which currently lie outside the scope of the regulatory framework. This mechanism should allow for all appropriate consumer protections to be upheld.

### **Topic Two: Consumer Protection and Regulatory Oversight**

**Proposal Two:** The CRU is proposing the following options for a regulatory tool to monitor market actors who engage in new energy activities outlined in the Directive. The aim of this regulatory tool would be to ensure that the CRU can fulfil its responsibilities as a dispute settling mechanism and ensure consumer protections are being upheld.

Several options are being provided as part of this Consultation; however, they represent the opposite ends the spectrum of regulatory mechanisms which could be applied. The final tool could be one or a combination of any of the options discussed or potentially an option which is presented to the CRU by a respondent to this Consultation.

**Option A:** A new licence is developed which encapsulates all the new electricity activities discussed in the CEP. This licence will be required to be obtained by any market actor offering electricity services which are not currently licenced activities.

**Option B:** Any market actor participating in new energy activities mentioned in the CEP either,

- Apply for a supply licence, generation licence or both (where applicable), or
- Establish a partnership with an existing licenced entity, ensuring there is a designated market participant subject to some form of regulatory oversight.

**Option C:** The CRU will develop guidelines for consumer interactions with market actors engaged in new energy activities. It would set out specific criteria to ensure appropriate consumer protections are being upheld. Market actors can choose to apply these criteria and as a result, will become trusted entities who comply with the CRU's standard terms and conditions for non-licensed bodies.

**Question Three:** Which option do you consider to be the best approach to apply regulatory oversight to market actors who offer services related to new energy activities outlined in the CEP?

**Question Four:** Can you identify an alternative approach to applying effective regulatory oversight to market actors engaged in new energy activities which is not outlined in this Consultation?

### Topic Two: Consumer Protection and Regulatory Oversight

**Proposal Three:** The CRU proposes to establish a framework which the Customer Care Team and Compliance and Enforcement Team can use to make consistent decisions for dispute settlements between final customers and market actors pursuing new energy activities.

**Question Five:** Do you agree with this approach?

**Question Six:** What do you consider to be the best format for this type of framework? (e.g. Codes of Practice, Guidelines of Best Practice, Minimum Standards for Consumer interactions, etc.)

### Topic Two: Consumer Protection and Regulatory Oversight

**Proposal Four:** As a means to develop a comprehensive list for the monitoring of active consumer groups participating in the electricity sector, the CRU is proposing that Energy Communities and Jointly Acting Active Consumers participating as part of a cooperative register their project with the CRU to enable appropriate monitoring of how many communities and jointly acting active consumer groups are in operation.

**Question Seven:** Do you agree with this approach?

**Question Eight:** What type of information do you think should be required to register?

## 2.3 Aggregators

There are several provisions outlined in the Electricity Directive which refer to aggregators' participation in the electricity market. Specifically, the Directive outlines that they should be able to participate individually from suppliers and that customers should be able to separately contract with suppliers and aggregators for their different electricity activities, if they wish. Additionally, there are

requirements in Article 17<sup>14</sup> of the Electricity Directive for Member States to facilitate the participation of demand response through aggregation and to ensure that the regulatory framework can incorporate these types of electricity activities. The figure below depicts how aggregation for demand side response is anticipated to work. An aggregator will be able to receive excess self-generation from active consumers to then trade in the SEM.

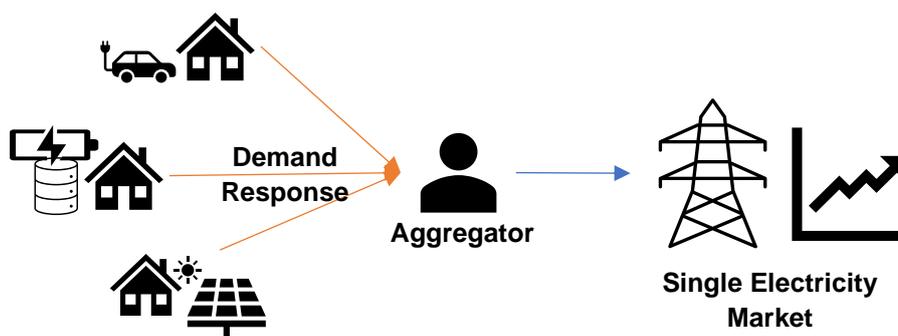


Figure 1: Representation of Demand Response Aggregation

The CRU contributed to a SEM Consultation Paper and Decision Paper on this topic in 2020<sup>15,16</sup>, to assess the existence and non-discriminatory market access of aggregators in the wholesale market. The conclusion of these papers was that aggregation does exist in the SEM through participation by suppliers, Demand Side Units (DSUs), Aggregator Generator Units (AGUs) and Assetless Supplier Units (ASUs). As all these market participants have pre-existing routes to market, it was also determined that the non-discriminatory access requirements for aggregators outlined in the Electricity Regulation (EU) 2019/943<sup>17</sup> were met by the current market arrangements.

During that process, the CRU observed that there is a potential for DSUs and suppliers to act as aggregators to pool small scale generation from energy communities and active consumers and to act as a balance responsible party on behalf of these consumers in the wholesale market.

This area may need to be explored further to fully implement the requirements of Article 17, however due the interactions aggregators will have with energy communities and active consumers, this topic is being presented at a high level in this paper. The CRU is requesting feedback from participants on the following question.

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<sup>14</sup> [Article 17](#) Demand response through aggregation of Directive (EU) 2019/944

<sup>15</sup> [SEM-20-042](#) Consultation on Aggregation

<sup>16</sup> [SEM-20-088](#) Decision on Aggregation

<sup>17</sup> [Regulation \(EU\) 2019/943](#) on the internal market for electricity

### Topic Three: Aggregators

**Question Nine:** What initial considerations should the CRU assess to enable effective participation by aggregators in the electricity sector?

## 2.4 Geographic Boundaries

Defining the limits of the geographic boundary of an energy community has been a complex problem due to proximity requirements for RECs which are outlined in the Renewables Directive which do not exist for CECs in the Electricity Directive. Limiting the geographic boundary to be contained within a certain number of kilometres, or behind a particular physical asset, such as a 38kV substation, on the electricity system has the benefit of being more technically feasible, but also has the potential to limit consumers from participating. However, if a community has too wide of a boundary, it could lead to technical and management challenges.

Some responses to the Calls for Evidence were in favour of limiting the geographic boundary and provided suggestions that an entire community be contained behind a single 38kV substation to allow for effective monitoring of energy transfers between members of the community. Alternatively, some responses recommended that energy communities should not be limited with regards to proximity to the renewable energy project. This, in turn, would encourage wider participation by consumers.

The CRU has considered that different energy activities which may be pursued by new actors may require different definitions pertaining to geographic scope of the project. There are benefits to both allowing energy communities to exist at a nationwide level and at a local level.

As noted, the geographic barrier is one of the key differences between CECs and RECs. The CRU has reviewed the construct of energy communities with regards to this topic and has reached the view that RECs can be considered a subset of a CEC. This consideration is depicted in the following figure.



Figure 2: Energy Community Breakdown

Requiring a geographic boundary to be necessary for the establishment of an REC would allow for a clear distinction between what constitutes as a CEC and as a REC. This would then allow the definition of RECs to be transposed in a way that meets the expectations of the Renewable Directive.

As a result, the CRU is proposing the following approach to address geographic boundaries for energy communities.

#### Topic Four: Geographic Boundaries

**Proposal Five:** The CRU proposes that the geographic scope of an REC should be limited by a physical asset on the distribution system, such as a 38kV substation. Also, the CRU proposes that CECs can be broader in scope and are not limited by geographic or technical limits and may be comprised of one or more RECs. This proposal would mean that Active Consumers could be part of a REC and a CEC, but other members of the CEC may not be able to be a member of the same REC if they are physically located outside the scope of the physical network asset.

**Question Ten:** Do you agree with this approach to distinguish proximity requirements between CECs and RECs?

## 2.5 Data protection and access

Both Directives highlight that consumers can seek third-party management of their renewable project, which could include assistance for data management. Some responses to the Calls for Evidence expressed concern that an individual's data could be at risk while interacting with new market actors. Alternatively, some responses outlined the challenge to provide efficient services when not enough data can be accessed.

It is expected that many of the new services which will be offered to energy consumers for active participation in the electricity sector will require the use of a smart meter. The rules for the access and use of data provided by smart meters will be outlined in the Smart Meter Data Access Code which the CRU will develop following the transposition of the Electricity Directive.

The CRU anticipates that the same data access requirements being applied to suppliers and existing licensed entities for the rollout of smart meters will continue to apply for any new market actors seeking to access consumer energy data for the purpose of providing an electricity activity outlined in the CEP.

It is important to note that the relevant authority of any provisions relating to data access and protection is the Data Protection Commission (DPC) and all new and existing market actors will still have to comply with all relevant data legislation, including the General Data Protection Legislation (GDPR)<sup>18</sup>. The CRU may have some role where electricity consumption and generation data will be used; however, the role will not extend beyond the remit of the CRU and will not intervene with other regulatory authorities with more competencies on the topic.

### Topic Five: Data Protection and Access

**Question Eleven:** If the CRU maintained the existing data protection requirements and applied them to market actors offering new services, either through licencing or contractual arrangements, would that be enough to effectively ensure consumer's data is being protected as they engage in these new activities?

**Question Twelve:** Are there any other arrangements in relation to data protection that the CRU should consider to ensure the appropriate consumer protections are upheld?

**Question Thirteen:** Do you see any further challenges associated with data access that should be considered for market actors engaged in new energy activities?

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<sup>18</sup> [Regulation \(EU\) 2016/679](#) General Data Protection Legislation

## **2.6 Energy Sharing and Trading**

Both Directives envisage that active consumers and energy communities can participate in energy sharing and trading. It is anticipated that this could include the physical allocation of energy, coming from the same renewable energy project, or through participation in a virtual platform which enables sharing.

The CRU has been involved in ongoing discussions to determine the types of energy sharing and trading which consumers may avail of, and additionally how to incorporate these new types of activities into the existing electricity market. These discussions have led to a high-level understanding that energy sharing and trading can be assessed through viewing the activities through the concepts of physical energy sharing and virtual energy sharing.

Due to the complexity of the topic, the CRU expects that there will be a follow-on Consultation to this paper to further discuss these concepts. This paper, however, provides a background on the CRU's understanding and some high-level questions on the topic.

### **2.5.1 Physical Energy Sharing and Trading**

The CRU understands physical energy sharing to be an activity in which all participating market actors are located within a confined proximity, such as behind a physical asset of the distribution system.

In what is to be anticipated as the most common of these scenarios, one or more renewable energy projects would be installed within the confined area where all participating members of the community or scheme would then benefit from the use of this energy.

With regards to energy sharing, members of the community would be able to share the energy from the renewable source and benefit from any surplus of energy exported back to the grid. As per requirements in the Electricity Directive, the DSO would be expected to facilitate the transfer of energy between members of the community to allow for the sharing to occur.

For the concept of energy trading, the CRU views that this would include monetary transactions and active monitoring of community member's energy usage by the DSO to allow active consumers of a community to sell energy to one another for rates potentially lower than the market price of electricity.

The figure below represents the CRU's understanding of how physical energy sharing would be set up, noting that the sharing would be facilitated by the DSO. This figure is followed by a high-level question on physical energy sharing.

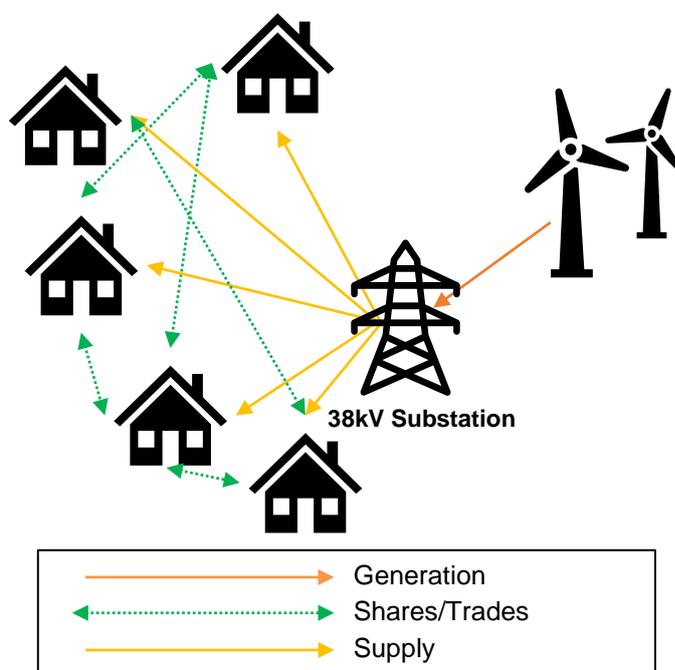


Figure 3: Representation of Physical Energy Sharing

### Topic Six: Energy Sharing (Physical)

**Question Fourteen:** Do you have a view on how physical energy sharing or trading would work? If so, can you provide an example?

#### 2.5.2 Virtual Energy Sharing and Trading

The CRU has been engaged in several discussions with innovative market participants who have presented their thoughts on peer-to-peer trading and virtual energy sharing. Alongside these discussions, the CRU conducted research to explore how other Member States and countries have introduced the concept of virtual energy sharing and trading. The two concepts which appeared most often involved either a Virtual Power Plant (VPP) or a peer-to-peer trading system, many of which leverage systems like blockchain.

The VPP is a concept in which a central figure (a retail supplier or another market actor) facilitates the trading of energy between participating members of the scheme or community by monitoring consumption versus generation levels of renewable projects owned by the VPP members. Depending on the configuration of the community, the central figure should be able

to facilitate energy sharing, where no transactions occur, and the members of the community divide the energy from the generation project among themselves. Alternatively, a community could participate in an online marketplace platform which allows them to buy and sell their generation with other members of the community and these trades will be facilitated by the central figure.

In this scenario, active consumers would sign-up to participate in this scheme and could sell energy they produce but may not consume or store to other participants at rates potentially lower than the market levels. The online platform would be managed by a third-party service provider or supplier that would ensure efficient trades are occurring and would act as the balance responsible party in cases of a shortfall of supply.

The figure on the below depicts a high-level representation of how virtual energy sharing would be facilitated, noting that the sharing or trades would be facilitated by a central online platform. This figure is followed by a general question on virtual energy sharing for which the CRU is requesting feedback from interested participants.

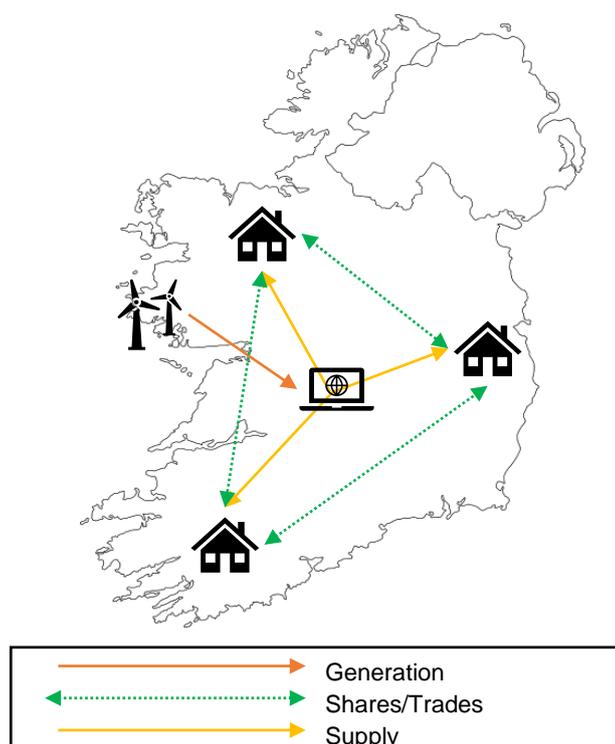


Figure 4: Representation of Virtual Energy Sharing

### Topic Six: Energy Sharing (Virtual)

**Question Fifteen:** In addition to the concepts of VPPs and peer-to-peer trading platforms, are there any other forms of virtual energy sharing or trading which you think customers would benefit from participating in?

## 2.7 Consumer Information

It is not expected that all active consumers would have explicit knowledge of the workings of the electricity sector and may not be able to fully comprehend the expectations of what is needed to participate in the electricity market. This may lead to outsourcing management, installation, or monitoring of their energy project to a third party.

These active consumers need to have access to materials on these topics to allow them to make fully informed decisions regarding their engagements in the electricity sector and in their interactions with industry experts.

The CRU is required to be a 'one-stop-shop' for information which may be of importance to final customers relating to energy undertakings, including how to participate in the electricity sector and markets. As a result, the following proposal is being raised for comment by interested stakeholders.

### Topic Seven: Consumer Information

**Proposal Six:** The CRU will develop a webpage on its website dedicated to informing active consumers and energy communities about getting involved in the energy sector. It will contain examples of electricity activities they can engage in, details on how to start their project, how to navigate the regulatory process in a simple manner, and what other entities may need to be involved to get their project fully realised (i.e. suppliers, network operators and if applicable, the SEAI).

**Question Sixteen:** Do you agree with this proposal?

**Question Seventeen:** What information would need to be included on this webpage to fully inform active consumers of their rights, entitlements, and obligations?

**Question Eighteen:** What other forms of engagement would be effective routes to inform consumers of their new rights under the CEP?

## 2.8 Barriers

Both Directives contain requirements for Member States to address potential existing barriers to active consumer and energy community participation. The CRU raised two questions on this topic in the Calls for Evidence and the responses highlighted that there could be some issues around overly complex regulatory procedures and financing options for investment in renewable energy projects..

The CRU was requested by DECC to further explore the topic of barriers, beyond the regulatory scope, to address all the potential barriers active consumers and energy communities may face while pursuing their energy activities. This assessment relates to the requirement in Article 22(3) of the Renewables Directive which states:

*“Member States shall carry out an assessment of the existing barriers and potential of development of renewable energy communities in their territories”.*

DECC is currently compiling this assessment and would be grateful for your views. This consultation has focused on matters pertaining to regulation, the business of CRU, but DECC is aware that as well as regulatory barriers there could be other challenges (e.g. technical, financial (including low household income challenges), lack of expertise, tenancy issues, limits to volunteer effort etc.) Your views could help DECC both to identify and address them. They have requested the following two questions be raised as part of this Consultation, however responses to two final questions should be directed to [CommunityRESS@DECC.gov.ie](mailto:CommunityRESS@DECC.gov.ie)

### Topic Eight: Barriers

**Question Nineteen:** Describe the existing barriers to community energy and any measures you think might be helpful in addressing those barriers?

**Question Twenty:** What are the potential benefits for the development of renewable energy communities and what would you suggest as the priorities to facilitate their development?

## 3. Summary of Proposals and Questions

The purpose of this paper is to present a number of questions and proposals the CRU considers important to progress the development of a Regulatory Framework for energy communities, active consumers, and market actors engaged in new energy activities.

The previous section discussed the numerous topics which need further clarification before the CRU can design and implement a full regulatory framework to encourage uptake by energy communities and participation by active consumers. While acknowledging there is further work needed in this area, the CRU also would like to highlight that there already is an encouraging amount of innovation occurring from service providers that is compliant with the current regulatory arrangements. Additionally, there is also already a high level of interest in energy communities and uptake in the SEAI's SEC programme.

This Consultation is a follow-up to the Calls for Evidence published on the topics of Energy Communities and Active Consumers in August 2020, and will be a precursor to some follow-on Consultations on some of the topics presented in this paper; however, currently the CRU is requesting feedback to the proposals and questions presented in the sections below to progress towards the next steps of establishing a regulatory framework to meet the expectations of the Electricity and Renewables Directives and encourage further uptake in energy communities and participation by active consumers.

### 3.1 Identification of Energy Activities

**Proposal One:** The following list of electricity activities has been identified in attempts to clearly outline all the undertakings which new and existing market actors may engage in following the transposition of the Directives.

- **Consumption\***
- **Generation\* (including microgeneration)**
- **Storage\***
- **Energy Sharing/Trading**
- **Supply\***
- **Demand-side response\***
- **Aggregation\***
- **Third-party services (development, installation, management, etc, of renewable energy products to active consumers or energy communities)**
- **Distribution Network Management (contingent on Electricity Directive transposition)**

\*Denotes existing market activities

- **Question One:** Do you have any comments on the approach the CRU is proposing to take to use these energy activities listed above to form the basis for which a regulatory framework is applied to market actors engaged in these activities?
- **Question Two:** Are there any additional energy activities which should be included in the list above?

## 3.2 Consumer Protection and Regulatory Oversight

***Proposal Two:*** The CRU is proposing the following options for a regulatory tool to monitor market actors who engage in new energy activities outlined in the Directive. The aim of this regulatory tool would be to ensure that the CRU can fulfil its responsibilities as a dispute settling mechanism and ensure consumer protections are being upheld.

Several options are being provided as part of this Consultation; however, they represent the opposite ends the spectrum of regulatory mechanisms which could be applied. The final tool could be one or a combination of any of the options discussed or potentially an option which is presented to the CRU by a respondent to this Consultation.

*Option A:* A new licence is developed which encapsulates all the new electricity activities discussed in the CEP. This licence will be required to be obtained by any market actor offering electricity services which are not currently licenced activities.

*Option B:* Any market actor offering new energy services mentioned in the CEP either,

- Apply for a supply licence, generation licence or both (where applicable), or
- Establish a partnership with an existing licenced entity, ensuring there is a designated market participant subject to some form of regulatory oversight.

*Option C:* The CRU will develop guidelines for consumer interactions with market actors engaged in new energy activities. It would set out specific criteria to ensure appropriate consumer protections are being upheld. Third-party service providers can choose to apply these criteria and as a result, will become trusted entities who comply with the CRU's standard terms and conditions for non-licensed bodies.

- **Question Three:** Which option do you consider to be the best approach to apply regulatory oversight to market actors who offer services related to new energy activities outlined in the CEP?
- **Question Four:** Can you identify an alternative approach to applying effective regulatory oversight to market actors engaged in new energy activities which is not outlined in this Consultation?

**Proposal Three:** The CRU proposes to establish a framework for which the Customer Care Team and Compliance and Enforcement Team can use to make consistent decisions for dispute settlements between final customers and market actors pursuing new energy activities.

- **Question Five:** Do you agree with this approach?
- **Question Six:** What do you consider to be the best format for this type of framework? (e.g. Codes of Practice, Guidelines of Best Practice, Minimum Standards for Consumer interactions, etc.)

**Proposal Four:** As means to develop a comprehensive list for the monitoring of active consumer groups participating in the electricity sector, the CRU is proposing that Energy Communities and Jointly Acting Active Consumers participating as part of a cooperative register their project with the CRU to enable appropriate monitoring of how many communities and jointly acting active consumer groups are in operation.

- **Question Seven:** Do you agree with this approach?
- **Question Eight:** What type of information do you think should be required to register?

### 3.3 Aggregator

- **Question Nine:** What initial considerations should the CRU assess to enable effective participation by aggregators in the electricity sector?

### 3.4 Geographic Boundaries

**Proposal Five:** The CRU proposes that the geographic scope of an REC should be limited by a physical asset on the distribution system, such as a 38kV substation. Also, the CRU proposes that CECs can be broader in scope and are not limited by geographic or technical limits and may be comprised of one or more RECs. This proposal would mean that Active Consumers could be part of a REC and a CEC, but other members of the CEC may not be able to be a member of the same REC if they are physically located outside the scope of the physical network asset.

- **Question Ten:** Do you agree with this approach to distinguish proximity requirements between CECs and RECs?

### 3.5 Data Protection and Access

- **Question Eleven:** If the CRU maintained the existing data protection requirements and applied them to market actors offering new services, either through licencing or contractual

arrangements, would that be enough to effectively ensure consumer's data is being protected as they engage in these new activities?

- **Question Twelve:** Are there any other arrangements in relation to data protection that the CRU should consider to ensure the appropriate consumer protection is upheld?
- **Question Thirteen:** Do you see any further challenges associated with data access that should be considered for market actors engaged in new energy activities?

### 3.6 Energy Sharing and Trading

- **Question Fourteen:** Do you have a view on how physical energy sharing or trading would work? If so, can you provide an example?
- **Question Fifteen:** In addition to the concepts of VPPs and peer-to-peer trading platforms, are there any other forms of virtual energy sharing or trading which you think customers would benefit from participating in?

### 3.7 Consumer Information

**Proposal Six:** The CRU will develop a webpage on its website dedicated to informing active consumers and energy communities about getting involved in the energy sector. It will contain examples of electricity activities they can engage in, details on how to start their project, how to navigate the regulatory process in a simple manner, and what other entities may need to be involved to get their project fully realised (i.e. suppliers, network operators and if applicable, the SEAI).

- **Question Sixteen:** Do you agree with this proposal?
- **Question Seventeen:** What information would need to be included on this webpage to fully inform active consumers of their rights, entitlements, and obligations?
- **Question Eighteen:** What other forms of communication would be effective routes to inform consumers of their new rights under the CEP?

### 3.8 Barriers

Please submit your responses to DECC at [CommunityRESS@DECC.gov.ie](mailto:CommunityRESS@DECC.gov.ie).

- **Question Nineteen:** Describe the existing barriers to community energy and any measures you think might be helpful in addressing those barriers?
- **Question Twenty:** What are the potential benefits for the development of renewable energy communities and what would you suggest as the priorities to facilitate their development?

## 4. Next Steps

This Consultation aims to highlight the topics needed for further discussion to progress development on the enabling regulatory framework for energy communities and active consumers. The comments and feedback on the proposals and questions raised in Sections Two and Three of this Consultation are welcome from interested market participants and individuals.

This Consultation will be open until 16 April 2021 and responses can be sent to [CEPinfopapers@cru.ie](mailto:CEPinfopapers@cru.ie).