

Subject: FEBEG comments on CREG's public consultation on the formal requirements for a request for a derogation from the IPC

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Contact:

Telephone:

Mail:

FEBEG thanks the CREG for having the opportunity to react to CREG's consultation on the formal requirements for a request for derogation to the Intermediate Price Cap (IPC) for the upcoming auction T-4 2026-27¹.

Last year, the template had not been consulted upon, which was unfortunate in the light of the huge data required from CRM candidates applying for a derogation. The organization of a consultation for the next auction is certainly an improvement in the process.

The inputs and suggestions of FEBEG are not confidential.

Executive summary

FEBEG has already expressed in the past its concerns about the IPC and the individual derogation to the IPC. **FEBEG was already convinced that the current IPC derogation mechanism was not ensuring the level playing field in the CRM: heavy procedure, revenues computed by Elia, risky for LT investments, ...**

However, **one of the new CREG proposal in this present consultation is even more problematic: some costs are now explicitly excluded from the missing money computation** in the template (and thus from the bid). This new proposal is completely unacceptable for FEBEG: **all capacities should be able to bid in the CRM reflecting their true costs.**

FEBEG calls for a broad review of the IPC derogation mechanism in the frame of the ongoing review of the CRM design but, in the short term, for a sound and manageable derogation procedure allowing market parties to correctly reflect their business cases in the CRM bids.

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<https://www.creg.be/fr/consultations-publiques/projet-de-decision-b2356-relative-aux-conditions-de-forme-dune-demande-de>

<https://www.creg.be/nl/openbare-raadplegingen/ontwerpbeslissing-b2356-inzake-de-vormvereisten-voor-een-verzoek-tot>

Main remarks:

FEBEG is convinced that **the current IPC Derogation set-up does not fully address the concerns expressed by the EC on its opening decision**, being that existing capacities should be guaranteed a level playing in the CRM.

Extract EC Decision of August 21: “having an intermediate price cap as a permanent feature without any possible individual derogation to it is novel could preventing existing capacity from bidding their true costs, while not being able to apply for multi-year contracts, as stated by some stakeholders This may lead to their exclusion from the CRM and even their exit from the electricity market, as pointed out by some market information received by the Commission during its preliminary examination”.

Some costs are explicitly excluded from the missing money computation in the CREG template

Some costs (overheads, local taxes, rental fees and fixed electricity offtake costs) are excluded as they were not included in the IPC computation. **This is unacceptable for FEBEG** as these costs do exist and are supported by the concerned capacities. **As stated by the EC, existing capacity should be able to bid their true costs.**

To ensure the level playing field among all capacities (incl. capacities eligible for long-term contract), all relevant costs for the CRM Candidates should be integrated in the missing money computation of the CREG template. This is certainly the case as there is a **direct relation between the missing money calculation via the CREG template and the bid**. Following the Royal Decree, the bid level (to be introduced end September) is capped to the computed missing money (that is already to be introduced mid-May). This makes that the CREG template is not only used to evaluate the right on a derogation to the IPC but also directly interferes with the bid level. **It is intolerable that via the CREG template it would be impossible to make a bid reflecting true costs** but also possible revenue/cost volatility in-between the IPC Derogation file submission date and bid date.

The derogation requests are not evaluated based on the revenues' computation of the CRM Candidates but on Elia's assumptions of the average revenues.

As highlighted at numerous occasions, the average revenues will include price spikes which would, in reality, be heavily discounted by investors in their business plans. Market parties should be able to assess themselves on which basis (methodology/ hypothesis/ scenarios) they will make an investment decision. At the end, the auction remains a competitive one, which will drive market actors to make a competitive bid.

The use of individual derogation comes with high risks for the investors as they will have to rely on yearly capacity contracts in an uncertain context.

Several categories of investments are not able to benefit from a long term contract that provides visibility on the cost recovery of those investments, e.g.

- non-eligible investment costs (major overhaul, conversion, ...);
- eligible investment costs below the investment threshold for a capacity contract for multiple delivery periods (upgrade, ...).

The calibration of the IPC and related derogation procedure are taking into account the abovementioned investments in an annualized way. As a result, the recovery of these investment costs relies on winning several times a yearly capacity contract and on being granted several times an individual derogation. This design choice creates a lot of uncertainty: How will the volumes in the future auctions evolve? How will the IPC evolve? Will it be possible to renew the derogation for the investment?

The lack of visibility and the uncertainty of being able to win consecutive yearly capacity contracts will discourage investments in existing power plants, ultimately could lead to an early decommissioning.

Therefore, FEBEG is of the opinion that the IPC should be correctly calibrated – consistent with the threshold for a capacity contract for 3 delivery periods – taking into account a margin error and allowing room to take recurrent investment costs, like major overhauls, in a non-annualized or at least skewed annualized way. This way, it would reduce the need for an individual derogation and would better match the need of capacities requesting MT/LT investments.

The template requires to much detailed or even irrelevant data

Finally, FEBEG is very **concerned by the level of details and justification pieces** that are required to obtain an individual derogation to the IPC (a.o. historic costs and revenues, detailed start-up costs,...). **Some data are even not useful for the CREG: revenues – up to 10 year compared to the delivery period – are requested** but the revenues for the delivery period are anyway computed by ELIA. Only the relevant data for the missing money of the delivery year should be requested by the CREG. According to FEBEG, this complexity will certainly **create barriers of entry** in the CRM for some investors.