

# Market Code Consultation WS 2

Market Conduct Rules (Market Surveillance)



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NATIONAL  
ENERGY CRISIS  
COMMITTEE

# Market roles to govern the Market Conduct Rules

## MARKET SURVEILLANCE PANEL



- Responsible for the application of the Market Code by the MO and SO,
- Compliance of Parties to the Market Code (via their licences); and
- Handling of disputes between participants.
- Remunerated, cost to NERSA
- NERSA appoints

## MARKET SURVEILLANCE UNIT



- MSU shall monitor and survey the markets governed by the Market Code with the main purpose of detecting incorrect behaviour of market participants leading to market abuse.
- The MSU shall also monitor that the MO is complying with these Market Rules and its timelines MSU shall have the authority to represent and act on behalf of Market Operator in all matters regulated by the Market Conduct Rules
- MSU employees shall operate under strict confidentiality arrangements

## MARKET CONDUCT RULES



- Market Conduct Rules are defined to ensure “that the Markets shall operate fairly and efficiently for all Market Participants”
- The aim is to promote integrity and efficiency in the Market
- It is the Market Participants (and others) obligation to act according to these rules at all times when engaged in trading and related activities


# Market Conduct rules – applies to all!

**NERSA**




The owner of the Market Code and thereby be a Party to the Code  
 Formally approves all changes to the Market Code (and is part of the modification process)  
 Formally appoint the members of the Market Code Advisory Committee including chairing their meetings  
 Formally appoint the Market Surveillance Panel  
 Fund the MCAC and MSP  
 Certify BRPs  
 Managing licenses (outside the Market Code)  
 Part of the Dispute Resolution process

**PARTY**



A signatory to the Market Code  
 For market participation being a  
 Applicant to become a Market Participant  
 A Market Participant  
 A BRP  
 A Party under Suspension or Termination

**MARKET OPERATOR**




Be subject and Party to the Market Code  
 Admit Market Participants according to BRP registrations and other administrative regulations –  
 Maintain and operate the required market trading and settlement platform(s) as required to adhere to the Market Code  
 Report regularly to NERSA  
 Monitor compliance of all Parties to the Market Code

**MARKET PARTICIPANT**



A participant in some of the Market Code market(s)  
 Compliant with the Market Code rules on Pricing, Settlement and Financial obligations  
 Have signed the Market Participant Agreement

**SYSTEM OPERATOR**



Be subject and Party to the Market Code  
 Schedule and dispatch according to the Market.  
 Operate the power system of South Africa compliant with other Code(s)  
 Maintain the security of supply subject to other Code(s)

**BALANCE RESPONSIBLE PARTY**

Could be a Market Participant?  
 Subject to the SO's rules on Balance Responsibility

# Code requirements (shortened)

## Market Surveillance Panel (chapter 4.2):

The Market Surveillance Panel (MSP) shall be responsible for monitoring and enforcement of:

- the application of the Market Code by the MO and SO;
  - compliance of Parties to the Market Code (via their licences);
  - Issue sanctions of category 2 and higher; and
  - Handling of disputes between Parties.
- 
- The MSP shall be comprised of a chairperson and not less than three, but not more than eight, other persons appointed by NERSA, on a part-time basis for a term of 5 years.

## Market Surveillance Unit (chapter 4.3):

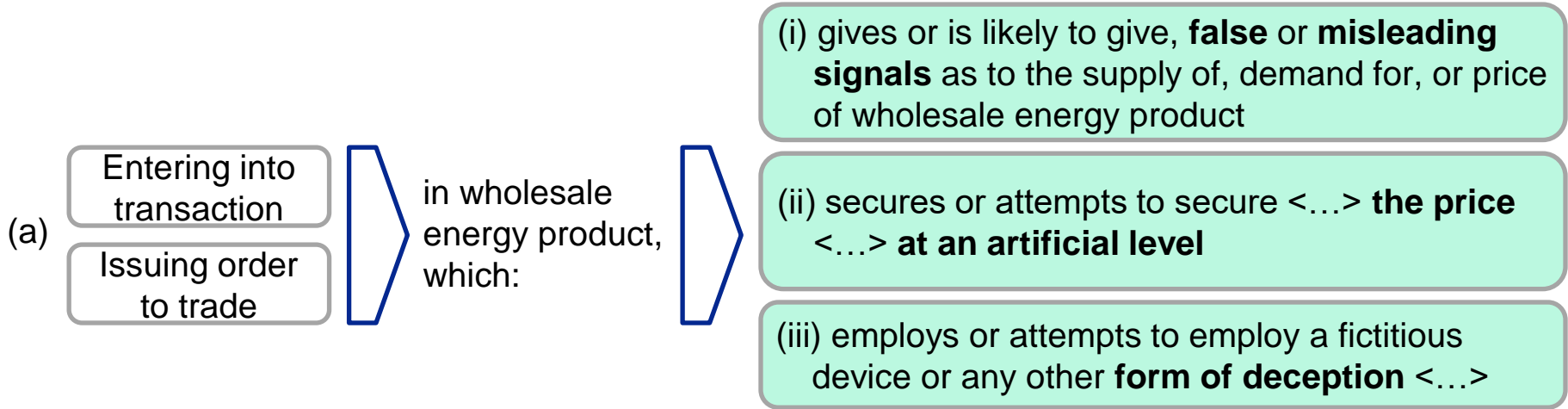
- A Markets Surveillance Unit (MSU) shall be established under the MO. This unit shall monitor and survey the markets governed by this Market Code with the main purpose of detecting incorrect behaviour of market participants leading to market abuse.
  - The MSU shall also monitor that the MO is complying with the Market Code and the Market Conduct Rules and its timelines.
  - It is the responsibility of each Market Participant to ensure compliance with the Market Conduct Rules by all relevant parts of its organisation. Each Market Participant shall ensure that any person involved in Trading and/or Clearing on its behalf, including members of management and other persons who makes decisions in relation to Products through the exercise of their employment, profession or other duties towards the Market Participant, are subject to restrictions and obligations that enables the Market Participant to fully and efficiently comply with these Market Conduct Rules.
  - The MSU shall have the authority to represent and act on behalf of MO in all matters regulated by the Market Conduct Rules and references to MO herein shall be construed accordingly.
  - This authority of MSU includes authority to make requests for information and to issue sanctions according to the same chapter (and the Market Participants shall abide).
  - Information received must only be used for the purpose of surveillance of the Market Conduct Rules, including the investigation of suspected breaches.
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- All MSU employees shall include confidentiality clauses in their employment contract to ensure that this information is not unduly shared.

# Code requirements (shortened)

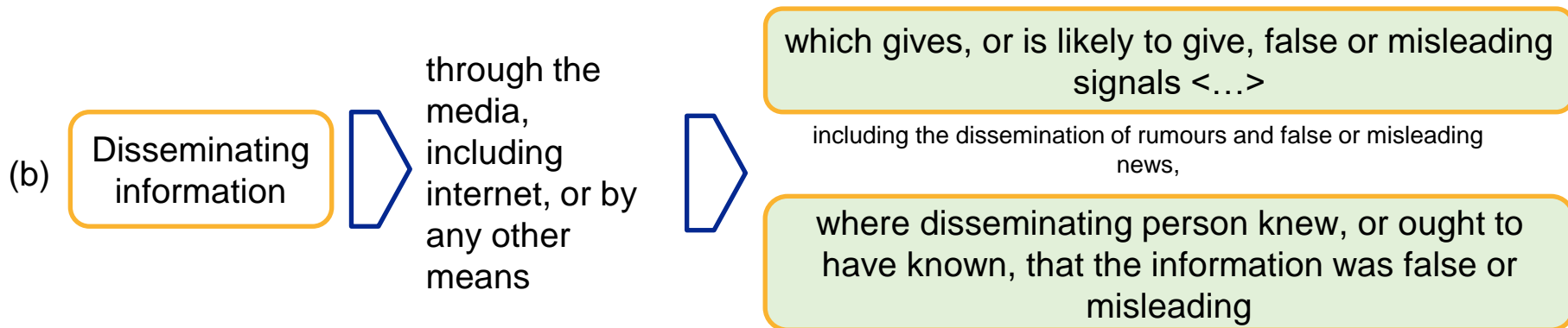
## Market Conduct Rules (appendix I)

- (1) Market Participants must at all times act in accordance with these Market Conduct Rules when engaged in trading and related activities and shall seek to promote integrity and efficiency in the Market. Market Participants shall take due account to any relevant regulatory or legal obligations, any proper and relevant professional standards of conduct, and the need for the Markets to operate fairly and efficiently for all Market Participants.
- (2) Each Market Participant shall ensure that any orders placed by it reflect a real purchase or sales interest, and that all transactions to which it is a party are genuine.
- (3) A Market Participant may not in any way improperly influence the price or price structure in the Markets, or otherwise disturb other Market Participants' access to or participation in the market.
- (4) Market Participants must not apply unreasonable business methods when carrying out trading and shall always seek to act in accordance with good business practice.

# Definition of market manipulation (1/2)



## Definition of market manipulation (2/2)



# Definition of inside information

*“‘inside information’ means information of a **precise nature** which has **not been made public**, which **relates**, directly or indirectly, to one or more **wholesale energy products** and which, **if it were made public**, would be likely to **significantly affect the prices** of those wholesale energy products”*

*“Information regarding the market participant's own plans and strategies for trading should not be considered as inside information.”*





# Inside information

- Inside Information - Information that would be likely to significantly affect prices if made public
  - Cannot be used for trading
  - Must be kept confidential
  - Cannot be used as basis for giving advice on trading
- Inside information regarding your own business must be published in an effective and timely manner
  - Disclosure may be exceptionally delayed in some cases



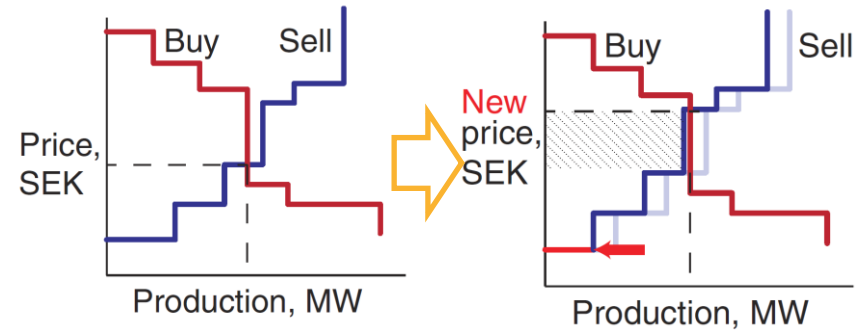
# “Significantly affect the prices”

- What is significant?
  - Large enough to be noticed or have an effect?
  - Meaningful?
  - If a normal rational trader would assess that it would be possible to profit from trading on the information, you should at least consider it as being significant



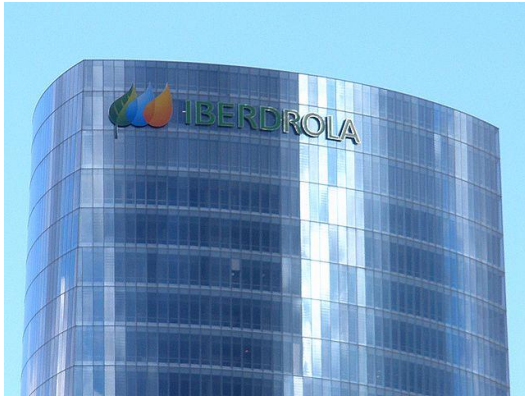
# Examples of Market Manipulation

- **Physical withholding**
  - For example not offering on the market, without justification, a power plant whose marginal cost is lower than the spot prices, misusing infrastructure, transmission capacities, etc., that would result in abnormal high prices
- **Comments:**
  - Not offering a power plant to the market by falsely claiming that the unit is in need of maintenance
  - Electricity markets are often characterized by large producers and low elasticity in demand. This can make such markets vulnerable to abuse of dominant position. Auction market where all participants face the same price, may be particularly exposed.



# Alleged manipulation by Iberdrola

“Following an investigation, the competition watchdog fined Iberdrola €25 million in November 2015 for manipulating the Spanish wholesale electricity market.”



ENERGY PRICES >

## Leading Spanish electricity firm Iberdrola accused of manipulating prices

Anti-corruption prosecutor says electric utility hatched plan to “illicitly” make €20 million



JOSÉ ANTONIO HERNÁNDEZ

Investigación EL PAÍS

Madrid - 12 MAY 2017 - 08:52 CEST

[Iberdrola](#), the Spanish energy giant, allegedly worked to alter the price of electricity and make “an illicit profit of €20 million” during the winter of 2013, coinciding with a [cold spell](#). The accusation has been brought by anti-corruption prosecutor Antonio Romeral in a complaint lodged against the company with the Audiencia Nacional, Spain’s central High Court.



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The competition authority determined that the company had deliberately manipulated the market by playing with the output at its hydroelectric power plants on the Duero, Sil and Tagus rivers.



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# Examples of Market Abuse

- **Cross-market-manipulation**
  - Trading on one market to improperly position the price of a product on a related market
- **Comments:**
  - Market prices are extensively used as reference prices for derivatives/OTC, hence this creates incentives for manipulating underlying prices in order to benefit in the other markets
  - *Cross-market manipulation may also be relevant between day-ahead, intraday and other physically settled markets, but pose a smaller risk if the relevant prices are not used as reference prices*



# Examples of Market Manipulation

- **Capacity hoarding:**
- Capacity hoarding means (i) the acquisition of all or part of the available transmission capacity (ii) without using it or without using it effectively

## The Danish Energy Regulatory Authority reports two Danish energy companies to the Danish State Prosecutor for Serious Economic and International Crime

Both cases relate to the behaviour of so called **capacity hoarding** on the Nordic **intraday market**, Elbas. Acting as a balancing market to support the day-ahead market, Elbas provides market participants with a place to further refine physical positions before final balancing measures are taken by the transmission system operators. In DERAs opinion, the market participants have acquired all available **transmission capacity** by trading with themselves. This behaviour can have a detrimental impact on market competition.



# Examples of Market Manipulation

- **Dissemination of false or misleading information**
  - **Example:** Publishing erroneous information when publishing inside information
  - **Example:** Spreading false rumors regarding expected outages or political decisions



Elon Musk agrees to pay \$20 million and quit as Tesla chairman in deal with SEC



## Important to note

- **No intention** is required
- Only **one of the situations** in the definition needs to be fulfilled
- There is **no requirement for** it to actually be an **impact** on supply, demand or price



Drawing by Dominik Joswig





THANK YOU  
FOR YOUR ATTENTION!

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