Response Form to the Consultation Paper

MiFID II/MiFIR review report on the development in prices for pre- and post-trade data and on the consolidated tape for equity instruments

12 July 2019 ESMA70-156-1471

Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **06 September 2019.**

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA_QUESTION_MDA_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA_MDA_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_MDA_ABCD_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA's website (www.esma.europa.eu under the heading "Your input – Open consultations" → "Consultation on Position limits and position management in commodities derivatives").

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading Legal Notice.

Who should read this paper

All interested stakeholders are invited to respond to this consultation paper. This consultation paper is primarily of interest to users of market data and trading venues, but responses are also sought from any other market participant including trade associations and industry bodies, institutional and retail investors.

General information about respondent

Name of the company / organisation	Association of German Banks (BdB), Deutscher Sparkassen- und Giroverband (DSGV) and Association of German Public Banks, VÖB, e.V.
Activity	Banking sector
Are you representing an association?	☒
Country/Region	Germany

Introduction

Please make your introductory comments below, if any

<ESMA_COMMENT_MDA_1>

In the following answers, we will give some examples of developments observed at some trading venues. These examples are only intended to illustrate our responses; it is neither intended nor possible to give a conclusive account of developments at all trading venues which our members are connected to.
<ESMA_COMMENT_MDA_1>

Questions

Q1 : Have prices of market data increased or decreased since the application of MiFID II/MiFIR? Please provide quantitative evidence to support your answer and specify whether you are referring to equity and/or non-equity instruments.

<ESMA_QUESTION_MDA_1>
We clearly see an increase in costs since the application of MiFID II/MiFIR. We cannot see any price decreases.

It should generally be noted that price changes do not necessarily have to coincide with the date of first application of the new provisions. It is also conceivable that price changes were brought forward in the run-up to new regulations or only occurred at a later point in time.
Please find attached two scenarios of cost changes for the two important exchanges in Germany, which are Deutsche Börse and Stuttgart Stock Exchange, since the application of MiFID II/MiFIR. This is only referring to equity data.

Price in € net per month		
Deutsche Börse:		
Scenario 1:	Firm with 50 Professional Users using XETRA Ultra Realtime, Level 2 via Terminals,	
	does use XETRA Ultra for trading as as Principal and as a Broker, create own products based on the data, is an SI,	
	use the data for other activities like risk calculation and also create indices based on the data.	
Dec 2017	50 * Professional Users	4.031,00
	Non-Display External Distribution Realtime	2.625,48
	Non-Display Internal Usage Realtime	1.750,32
	Total Dec 2017	6.656,48
Jan 2018	50* Professional Users	4.100,00
	Non-Display Tier 1	5.000,00
	Other Application Use	1.200,00
	Index Calculation	5.000,00
	Total Jan 2018	15.300,00
	Price Increase	**129,85%**
Scenario 2	Firm with 5 Professional Users using XETRA Ultra realtime, Level 2 via Terminals	
	does use XETRA Ultra for client's smart order routing and for realtime analysis	
Dec 2017	5 * Professional Users	403,10
	Non-Display Internal Usage Realtime	1.750,32
	Total Dec 2017	2.153,42
Jan 2018	5* Professional Users	410,00
	Other Application Use	1.200,00
	Non-Display Tier 3	2.000,00
	Total Jan 2018	3.610,00
	Price Increase	**67,64%**
Stuttgart Stock Exchange:		
Scenario 1:	Firm with 50 Professional Users using Stuttgart Stock Exchange Realtime via Terminals,	
	does use this data for trading as as Principal and as a Broker, create own products based on the data, is an SI,	
	use the data for other activities like risk calculation and also create indices based on the data.	
Dec 2017	50 * Professional User	375,00
	Non-Display Internal Usage Realtime	375,00
	Non-Display External Distribution Realtime	750,00
	Total Dec 2017	1.500,00
Jan 2018	50 * Professional User	375,00
	Other Application Use	500,00
	Non-Display Trading	1.000,00
	Index Calculation	1.000,00
	Total Jan 2018	2.875,00
	Price Increase	**91,67%**
Scenario 2	Firm with 5 Professional Users using Stuttgart Stock Exchange Realtime via Terminals,	
	does use XETRA Ultra for client's smart order routing and for realtime analysis	
Dec 2017	5 * Professional User	37,50
	Non-Display Internal Usage Realtime	375,00
	Total 2017	412,50
Jan 2018	5 * Professional User	37,50
	Other Application Use	500,00
	Non-Display Trading	1.000,00
	Total 2018	1.537,50
	Price Increase	**272,73%**

As you can see the impact for a customer is highly dependent on the use cases in applications and the number of individual users accessing realtime data via terminals. We saw a massive increase in costs for Non-Display use in applications whereas the fees for individual users remained constant effective Jan 2018.

Please also see . EURONEXT monthly Non-Display fees in the table below as another example:

Vendor	License	2017	2018	Delta
EURONEXT	ENX All Indices Non-Display Principal Trading	330,00 €	375,00 €	+14%
	ENX Cash L2 Non-Display Principal Trading	2.760,00 €	3.225,00 €	+17%
	ENX Eqty-Index Derivs L2 Non-Display Principal Trading	0,00 €	1.500,00 €	n.a.
	ENX All Indices Non-Display Other Use	195,00 €	220,00 €	+13%
	ENX Cash L2 Non-DisplayOther Use	1.170,00 €	1.375,00 €	+18%
	ENX Eqty-Index Derivs L2 Non-Display Other Use	455,00 €	550,00 €	+21%

<ESMA_QUESTION_MDA_1>

Q2 : If you are of the view that prices have increased, what are the underlying reasons for this development?

<ESMA_QUESTION_MDA_2>
There can be multiple reasons for the price increases. The exchanges have increased their market data product prices and introduced new market data price list items/fees since MiFID II. Also MiFID II itself was a catalyst for the new disaggregated products to be created; it could be that the development and maintenance of these products were and are cross-financed by data fees from other price list items.
<ESMA_QUESTION_MDA_2>

Q3 : Following the application of MiFID II/MiFIR, are there any market data services for which new fees have been introduced (i.e. either data services that were free of charge until the application of MiFID II or any new types of market data services)?

<ESMA_QUESTION_MDA_3>
Various exchanges have introduced new types of licenses for the usage of data in Non-Display applications leading to an increase in fees. We do not really see that the service offering itself has been enlarged, i.e. costs for creation and distribution of the data has not been increased.
Exchanges are using the official ESMA list for SI to ask banks if they are using their data for order matching to verify if the responding license for this activity is in place (last examples were BME and SIX Swiss Exchange).

Irrespective of the number of financial instruments offered, a bank performing this business pays the same amount as an MTF, OTF, Broker crossing networks and dark pools (e.g. refer to Page 6 of the documentation from Deutsche Börse Group available on https://www.mds.deutsche-boerse.com/resource/blob/1334848/00811eef7e722d4439bf815a832ff4db/data/Giudance-Note-for-customers.pdf.
Such cross-subsidizing e. g. Deutsche Börse leads to increase of monthly license fees up to 186% yoy.

Vendor	License	2017	2018	Delta
Deutsche Börse	XETRA Ultra Non-Display (2017)	1.750,32 €	-	
	XETRA Ultra Non-Display Tier 3 (Trading or Client business)	-	2.000,00 €	+14%
	XETRA Ultra Non-Display Tier 2 (Trading & Client business)	-	2.750,00 €	+57%
	XETRA Ultra Non-Display Tier 1 (Trading facility / SI / MTF)	-	5.000,00 €	+186%

As another example, London Stock Exchange (LSE) requires licensing for “Systematic Internaliser Activity” not only for usage of their equity prices inside an SI platform, but as well for any SI on derivative products where only the underlying is listed at LSE.

Also, the best execution requirement can lead to increased exchange fees as a bank may need to access more exchanges than before (and this mostly in Realtime) to ensure the best execution for a trade. Best execution must be licensed as Non-Display use of exchange data. The license model can be different per exchange. For

the German Exchanges this is covered by the newly introduced licenses for “Trading based activities”.
Another typical move has been the introduction of special licenses per business function (e.g. Risk Management, Index Creation).
<ESMA_QUESTION_MDA_3>

Q4 : Do you observe other practices that may directly or indirectly impact the price for market data (e.g. complex market data policies, use of non-disclosure agreements)? Please explain and provide evidence.

<ESMA_QUESTION_MDA_4>
Some exchanges are restricting the access to “Pay per user” programs, that would allow to reduce fees for users having access to the same data over various channels (terminals, applications).
Examples:
- BME: The Fee Per User scheme is offered only at exceptional and discretionary basis
- Deutsche Börse: The allowance to participate in their “PPU” scheme is only given when the full company conglomerate is taking part. Previously it was possible to choose per legal entity which scheme is cheaper.
In general the Unit of Count policies vary significantly across exchanges, indeed they evolve creatively within the same exchange across time,are not standardized in their individual outlay leaving room for interpretation and potential under-licensing. So-called “Audit” 3rd parties are then engaged by the exchange to inspect the compliant usage, which may lead to back bills.
Such practices lead to financial risks for the market data customers and could easily be avoided e.g. by a uniform rule that user accesses are always paid per “physical” user and multiple display usage by the same person are always counted as one access.
With some vendors, e.g. FTSE belonging to London Stock Exchange or Refinitiv, we are observing additional usage restrictions like the need for a dedicated licensing for the storage of end-of-day values even when a license for real-time data is already acquired. This is worrisome as it opens a playing field for others, restricting the usage rights to dedicated timing aspects.
Last, special attention needs to be given to licensing components that go beyond user fees, e.g. a license for using the data in an SI activity should not be used to prevent competition, but only to prevent direct re-use of a quality assured price by another MTF.
<ESMA_QUESTION_MDA_4>

Q5 : Do you agree that trading venues/APAs/SIs comply with the requirement of making available the information with respect to the RCB provisions? If not, please explain which information is missing in your view and for what type of entity.

<ESMA_QUESTION_MDA_5>

The regulations require that the market data price should be:
a) based on costs of producing and disseminating such data and may include a reasonable margin (Article 85 of CDR 2017/565 and Article 7 of CDR 2017/567),
b) offered on a non-discriminatory basis to all clients (Article 86 of CDR 2017/565 and Article 8 of CDR 2017/567),
c) charged according to the use made by the individual end-user (Article 87 of CDR 2017/565 and Article 9 of CDR 2017/567), and
d) available without being bundled with other services (Article 88 of CDR 2017/565 and Article 10 of CDR 2017/567).

We have checked the RCB document from Deutsche Börse Group which is available on
https://www.mds.deutsche-boerse.com/resource/blob/1334838/3c8268f3984369ea06aa20cb6ba47d07/data/MiFIR-RCB-documentation-english_V1_1.pdf
This document contains only general comments. There are no statements how prices for different licenses were derived nor is the "reasonable margin" defined.

As the process of producing and disseminating data is mostly identical for all exchanges, costs should be comparable. Either way, the whole process would benefit from a thorough definition of "costs of producing and disseminating such data" as well as a comprehensive guideline as to what constitutes a "reasonable margin".
<ESMA_QUESTION_MDA_5>

Q6 : Do you share ESMA's assessment on the quality of the RCB information disclosed by trading venues, APAs and SIs? If there are areas in which you disagree with ESMA's assessment, please explain.

<ESMA_QUESTION_MDA_6>
We agree with ESMA's assessment that the quality is not sufficient. We are particularly concerned that trading venues do not seem to fulfil the „Obligation to provide market data on a non-discriminatory basis" and "based on costs of producing and disseminating such data".
The requirement for a reasonable commercial basis requires that the fees are based on the cost of producing and sharing that data. Exchanges should transparently separate costs for trade execution and creation of data. The latter could then be the cost base for the products sold as market data. Exchanges should disclose their increased cost base when they place new licenses in the market.
ESMA providing detailed guidance on both terminology and categorization of users, as well as cost ratios and the allocation key for allocating costs would go a long way to solve our problems.

We have to accept that the exchange’s main interest is to use their position to increase revenue for their shareholders and to grow further which is visible in their yearly reports and their announced targets.
For example please refer to the press statement of Deutsche Börse on https://www.deutsche-boerse.com/dbg-en/media/press-releases/Deutsche-B-rse-continues-growth-as-planned-in-Q2-2019-1591384.
<ESMA_QUESTION_MDA_6>

Q7 : Do you agree that the usability and comparability of the RCB information disclosed could be improved by issuing supervisory guidance? If yes, please specify in which areas you would consider further guidance most useful, including possible solutions to improve the usability and comparability of the information.

<ESMA_QUESTION_MDA_7>
A tighter control on the information published may support the commitment to provide transparency, e.g. the Euronext webpage does not seem to be kept up to date. However, it is worth stressing that transparency as to the intent to charge for data based on the value perceived for the user only flags the potential abuse of pricing power and does nothing to constrain such excesses. Further standardization of the information published may support as well e.g. a product calculation sheet that explains per product the pricing applied in detailed numbers.

<ESMA_QUESTION_MDA_7>

Q8 : Do you think that the current RCB approach (transparency plus) can deliver on the objective to reduce the price of market data or should it be replaced by an alternative approach such as a revenue cap or LRIC+ model? Please justify your position and provide examples of possible alternatives.

<ESMA_QUESTION_MDA_8>
Transparency plus is only helpful when based on current, detailed figures at market data product level. In general the production cost for market data are difficult to disentangle from the cost of trading activity, as quotes and traded prices are the core element for market data. Specifically, any licensing for “Derived Data” could be understood as provided with zero cost base, as no dedicated service effort is needed to “produce” them. LRIC or any other model restricting the fee level may be helpful.

<ESMA_QUESTION_MDA_8>

Q9 : Do you consider that a revenue cap model as presented above might be a feasible approach to reduce the cost of market data? Which elements would be key for successfully implementing such a model?

<ESMA_QUESTION_MDA_9>
A revenue cap as percentage of the trading revenue could be the ultima ratio, as it would help to separate trading as the MTF/APA/exchanges’ core activity from the by-product of selling market data.

However, we are concerned about the requirement for subjective classification and administrative burden that such approaches would place on ESMA as the oversight body. As an alternative approach some consideration may be given to the suggestion that for markets to operate efficiently, and for data-related innovation to be commercially viable, the current paradigm of venues extracting material revenue from the rest of the market participants needs to be challenged. Under this approach, the broad dissemination of market data should be seen as an obligation of trading venues and access to that data should be a right for those wishing to participate in the equity markets as well as for the firms who assist those who directly participate (e.g TCA providers or data analytics engines).

In such a paradigm, revenue accrues to those who make the market more efficient rather than those who can constrain such efficiency by limiting access to data that they happen to control because it is a necessary by-product of their core business of matching buyers to sellers.

In principle, however, it should be noted that the answer to the question of whether it makes sense to force a CTP solution depends crucially on the concrete design of such a CTP. In any case, it must be avoided that further additional costs arise for the users without generating any real added value.

Against this backdrop, a rational economic model would require for a single CTP be appointed as a result of periodic competitive tender and their business model could be that they charge all providers and users of data a fee representing the share of the CTPs' costs that are necessitated by the interactions with the CTP. In such an example, users would pay the incremental cost of their data feed plus a profit. Likewise, contributors of data would pay a proportion of the cost of consolidating data in line with the proportion of the number of messages submitted to the CTP plus a profit. The reduction in frictional costs as a result of this approach when accessing prevailing prices would be significant.

Please also see our answer to Q21.
<ESMA_QUESTION_MDA_9>

Q10 : Did data disaggregation result in lower costs for market data for data users? If not, please explain why?

<ESMA_QUESTION_MDA_10>
Our member banks have not requested any disaggregated products created by the trading venues as we currently always need the bundled product for our business.
Firms using a consolidated Realtime feed from e.g. Bloomberg or Refinitiv also cannot use these products as these vendors do not offer any entitlement for these products. The only option would be a Direct Feed Connection to the several exchanges which leads to increased costs and

would contradict the original reason for implementing the disaggregated products.
It also looks like the two disaggregated products (Pre-Trade and Post-Trade) are more expensive then the bundled product.
Please find some examples for the two important exchanges in Germany:

Deutsche Börse, Price List to the Market Data Dissemination Agreement of Deutsche Börse AG, Effective as of 2 July 2019, Version 10_10			
B: Distribution Licence Fees			
Information Product	**Type**	**Real-time €/Month net**	**Delayed €/Month net**
EEX® Derivatives Market – Pre-Trade	Disaggregated	900,00	900,00
EEX® Derivatives Market – Post-Trade	Disaggregated	600,00	600,00
EEX® Spot and Derivatives Market	Aggregated	1.248,00	1.248,00
	Additional charge	252,00	252,00
Börse Düsseldorf – Pre-Trade	Disaggregated	200,00	100,00
Börse Düsseldorf – Post-Trade	Disaggregated	150,00	75,00
Börse München – Pre-Trade	Disaggregated	200,00	100,00
Börse München – Post-Trade	Disaggregated	150,00	75,00
Börse Hamburg – Pre-Trade	Disaggregated	200,00	100,00
Börse Hamburg – Post-Trade	Disaggregated	150,00	75,00
Börse Hannover – Pre-Trade	Disaggregated	200,00	100,00
Börse Hannover – Post-Trade	Disaggregated	150,00	75,00
Börse Berlin – Pre-Trade	Disaggregated	200,00	100,00
Börse Berlin – Post-Trade	Disaggregated	150,00	75,00
Regional Exchanges Germany	Aggregated	360,00	190,00
	Additional charge	1.390,00	685,00
C Non-Display Licence Fees			
Information Products	**Type**	**Real-time €/Month net**	
EEX® Derivatives Market – Pre-Trade	Disaggregated Trading Tier 1	1.000,00	
EEX® Derivatives Market – Post-Trade	Disaggregated Trading Tier 1	700,00	
EEX® Spot and Derivatives Market	Aggregated Trading Tier1	1.600,00	
	Additional charge	100,00	
Börse Düsseldorf – Pre-Trade	Disaggregated Trading Tier 1	375,00	
Börse Düsseldorf – Post-Trade	Disaggregated Trading Tier 1	300,00	
Börse München – Pre-Trade	Disaggregated Trading Tier 1	375,00	
Börse München – Post-Trade	Disaggregated Trading Tier 1	300,00	
Börse Hamburg – Pre-Trade	Disaggregated Trading Tier 1	375,00	
Börse Hamburg – Post-Trade	Disaggregated Trading Tier 1	300,00	
Börse Hannover – Pre-Trade	Disaggregated Trading Tier 1	375,00	
Börse Hannover – Post-Trade	Disaggregated Trading Tier 1	300,00	
Börse Berlin – Pre-Trade	Disaggregated Trading Tier 1	375,00	
Börse Berlin – Post-Trade	Disaggregated Trading Tier 1	300,00	
Regional Exchanges Germany	Aggregated Trading Tier1	750,00	
	Additional charge	2.625,00	
Boerse Stuttgart GmbH, Price List Data Utilization to the Market Data Dissemination Agreement, Version 7.1, Effective from 10/01/2018			
1 (Re)Vendor Fees (=Distribution Licence Fees)			
Information Product	**Type**	**Real-time €/Month net**	**Delayed €/Month net**
Price data: Pre-Trade	Disaggregated	0,00	72,00
Price data: Post-Trade	Disaggregated	0,00	36,00
Price data: Pre & Post Trade	Aggregated	0,00	100,00
	Additional charge	0,00	8,00
3 Non-Display Information Usage			
Information Product	**Type**	**Real-time €/Month net**	
Price data: Pre-Trade	Disaggregated Trading Activity	720,00	
Price data: Post-Trade	Disaggregated Trading Activity	360,00	
Price data: Pre & Post Trade	Aggregated Trading Activity	1.000,00	
	Additional charge	80,00	
Price data: Pre-Trade	Disaggregated Index Calculatior	720,00	
Price data: Post-Trade	Disaggregated Index Calculatior	360,00	
Price data: Pre & Post Trade	Aggregated Index Calculation	1.000,00	
	Additional charge	80,00	
Price data: Pre-Trade	Disaggregated Other Usage	360,00	
Price data: Post-Trade	Disaggregated Other Usage	180,00	
Price data: Pre & Post Trade	Aggregated Other Usage	500,00	
	Additional charge	40,00	

<ESMA_QUESTION_MDA_10>

Q11 : Why has there been only little demand in disaggregated data?

<ESMA_QUESTION_MDA_11>
Please see answer A10.
<ESMA_QUESTION_MDA_11>

Q12 : Do trading venues and APAs comply with the requirement to make available data free of charge 15 minutes after publication? If not, please explain in which areas you have identified deficiencies

<ESMA_QUESTION_MDA_12>
Most of the exchanges do comply with the rule to provide delayed data free of charge, but this is normally restricted to internal usage via a terminal. The London Metal Exchange is the only European exchange that we are aware of that charges for delayed data on a terminal.

For the following use cases some exchanges are insisting on a Market Data Dissemination Agreement and a fee to be paid:

1. Non-Display use of delayed information in applications
2. Distribution of delayed data externally
3. Usage of on an intraday basis stored delayed data for historical references (e.g. TMX since Oct 01, 2017)

For point 1 (Non-Display use in applications) Refinitiv is providing comprehensive and up-to-date information on their customer zone in a Non-Display Restriction Matrix and in providing additional usage policies per exchange. The information is available after a user registration.

According to this matrix the following EU 28 Exchanges currently seem to restrict use of Non-Realtime data in applications:

- Borsa Italiana (Italian Exchange)
- Budapest Stock Exchange
- Euronext
- ICE Futures
- London Metal Exchange (LME)
- London Stock Exchange (LSE)
- Luxembourg Stock Exchange
- NASDAQ Nordic & Baltic (OMX)
- Oslo Stock Exchange (Oslo Bors)
- Sociedad de Bolsas (SIBE - Mercado Continuo Espanol)
- Vienna Stock Exchange (Wiener Boerse)
- Warsaw Stock Exchange

<ESMA_QUESTION_MDA_12>

Q13 : Do you consider it necessary to provide further supervisory guidance in this area (for instance by reviewing Q&As 9 and/or 10) Please justify your position and explain in which area further guidance may be needed? Please differentiate between pre- and post-trade data.

<ESMA_QUESTION_MDA_13>
No specific contract should be needed to use Delayed Data.
<ESMA_QUESTION_MDA_13>

Q14 : Do you agree that the identified reasons, in particular the regulatory framework and competition by non-regulated entities, make it unattractive to operate an equity CT?

<ESMA_QUESTION_MDA_14>
Yes.
<ESMA_QUESTION_MDA_14>

Q15 : Do you consider that further elements hinder the establishment of an equity CT? If yes, please explain which elements are missing and why they matter.

<ESMA_QUESTION_MDA_15>
We see as a key challenge to provide adequate data quality based on the market participants' contribution. The following example illustrates the complexity: When a share is traded as hedge for a derivative transaction, the shares are excluded from the trading obligation, leading to that the share can be traded e.g. 3 hours later at an off-market level. However such share price would still part of the price submission, although way out of market level. For the CT this means that such values are to be identified and filtered out to avoid price dilution.
<ESMA_QUESTION_MDA_15>

Q16 : Please explain what CTP would best meet the needs of users and the market?

<ESMA_QUESTION_MDA_16>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MDA_16>

Q17 : Do you agree that real-time post-trade data is available from both trading venues and APAs as well as data vendors and that the data is currently not covering 100% of the market, i.e. including all equity trading venues in the EU and all APAs reporting transactions in equity instruments? If not, please explain.

<ESMA_QUESTION_MDA_17>
We do not have sufficient insight to state an opinion.<ESMA_QUESTION_MDA_17>

Q18 : Do you agree that post-trade data is provided on a timely basis and meets the requirements set out in MiFID II/MiFIR and in the level 2 provisions? If not, please explain.

<ESMA_QUESTION_MDA_18>
Please see answer A15. <ESMA_QUESTION_MDA_18>

Q19 : Do you agree with the issues on the content of data and the use different data standards identified or do you consider that important issues are missing and/or not correctly presented?

<ESMA_QUESTION_MDA_19>
Yes.
<ESMA_QUESTION_MDA_19>

Q20 : Do you agree that the observed deficiencies make it challenging to consolidate data in a real-time data feed? If yes, how could those deficiencies best be tackled in your view?

<ESMA_QUESTION_MDA_20>
Yes.
<ESMA_QUESTION_MDA_20>

Q21 : What are the risks of not having a CTP and the benefits of having one?

<ESMA_QUESTION_MDA_21>
Our member banks are skeptical regarding the promotion or even introduction of a Consolidated Tape Provider by regulatory intervention. It should be carefully examined whether a CTP-arrangement can solve the (evident) deficiencies in the development of market data providing prices.

From our perspective there are some critical issues, in particular:

- Extent of market data to be made available by CTP: Even if the CTP is furnished with a wide scope of data providing obligations the CTP will not be able to provide all data needed by the market participants.
- Latency: We expect that the CTP will not be able to provide data real-time or near real-time – especially due to the fragmented European Market.

Accordingly a CTP will not (completely) satisfy the information demand of the market participants so they will furthermore need the market data services of the trading venues and/or data vendors.

This in mind and further on considering the additional costs linked with the introduction and maintenance of a CTP (that the market participants probably would have to bear) our member banks fear that a cost/benefit-calculation would be negative. In fact, our member banks expect that introduction of a CTP would cause significant additional costs for participants having to pay both for the CTP as well as additional exchanges beyond that.

With respect to the US-market that is referred to by ESMA (p. 44ff.) we would like to point out that in the U.S. fees for market data needed by market participants have been increased considerable in the last decade as well though a CT-arrangement has been established there for many years. That has triggered a discussion in the U.S. similar to that here in Europe. See as evidence the opinion of the SEC and the statement of the SEC chairman Jay Clayton:

https://www.sec.gov/litigation/opinions/2018/34-84432.pdf

https://www.sec.gov/news/public-statement/statement-chairman-clayton-2018-10-16

<ESMA_QUESTION_MDA_21>

Q22 : Would you be supportive of an industry-led initiative to further improve data quality and the use of harmonised standards or would you prefer ESMA guidance? Please explain.

<ESMA_QUESTION_MDA_22>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MDA_22>

Q23 : In addition to the standardisation of the reporting and format, as described before, did you identify any further relevant data quality issue to be considered for the successful establishment of CTPs?

<ESMA_QUESTION_MDA_23>
Please see answer A15.
<ESMA_QUESTION_MDA_23>

Q24 : Do you agree that the mandatory contribution from trading venues and APAs to a CTP would favour the establishment of CT?

<ESMA_QUESTION_MDA_24>
Yes.
<ESMA_QUESTION_MDA_24>

Q25 : Do you have preferences between the option of (i) requiring trading venues and APAs to contribute data to the CT, or, in alternative (ii) setting forth criteria to determine the price that CTPs should pay to TVs and APAs for the data? If so, please explain why.

<ESMA_QUESTION_MDA_25>
No.
<ESMA_QUESTION_MDA_25>

Q26 : Do you agree that the mandatory consumption could favour the establishment of a CT? If not, please explain your concerns associated with the mandatory consumption.

<ESMA_QUESTION_MDA_26>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MDA_26>

Q27 : Would mandatory consumption impact other rules in MiFID II and if yes, how?

<ESMA_QUESTION_MDA_27>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MDA_27>

Q28 : Do you consider it necessary that the CT covers all trading venues and APAs and the whole scope of equity instruments or would you be supportive of limiting the coverage of the CT? Please provide reasons for your preference and explain your preferred approach.

<ESMA_QUESTION_MDA_28>
No, it is not necessary, subsets would be helpful as well.<ESMA_QUESTION_MDA_28>

Q29 : Do you agree with ESMA's preferred model of real-time CT? If you consider that, on the contrary, the delayed or tape of record CT are preferable, please indicate the reasons of your preference.

<ESMA_QUESTION_MDA_29>
Yes.
<ESMA_QUESTION_MDA_29>

Q30 : Are there any measures (either technical or regulatory) that can be taken in order to mitigate the latency impacts?

<ESMA_QUESTION_MDA_30>
Next to evident technical measures, regulation to minimize the time for submission would in accordance to Post Trade Transparency (e.g. 1 min for Equity) help to minimize latency.<ESMA_QUESTION_MDA_30>

Q31 : Do you agree that the CT should be operated on an exclusive basis? To what extent should other entities (e.g. APA or data vendors) be allowed to compete with the CTP?

<ESMA_QUESTION_MDA_31>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MDA_31>

Q32 : Should the contract duration of an appointed CTP be limited? If yes, to how many years?

<ESMA_QUESTION_MDA_32>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MDA_32>

Q33 : Please indicate what would be, in your view and on the basis of your experience with TVs and data vendors, a fair monthly or annual fee to be charged by a CTP for the real-time consolidation per user?

<ESMA_QUESTION_MDA_33>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MDA_33>

Q34 : Would you agree with the abovementioned model for the CT to charge for the provision of consolidated date and redistribute part of the revenues to contributing entities? If not please explain.

<ESMA_QUESTION_MDA_34>
Yes.
<ESMA_QUESTION_MDA_34>

Q35 : How would Brexit impact the establishment of a CT? Would an EU27 CTP consolidating only EU27 transactions be of added value or would a CT that lacks UK data not be perceived as attractive?

<ESMA_QUESTION_MDA_35>
Of course, Brexit may weaken the regulatory support a CT could leverage upon. A price for an instrument listed at a UK market place would need to be considered for a sufficient data quality.<ESMA_QUESTION_MDA_35>

Q36 : In your view, how would an EU27 CT impact the level playing field between the EU27 and the UK? Please explain.

<ESMA_QUESTION_MDA_36>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MDA_36>