**CP on the RTS on reasonable commercial basis**

**Do you agree to the general approach used to specify the costs and margin attributable to the production and distribution of market data? Please elaborate.**

<ESMA\_QUESTION\_CP1\_26>

The cost of producing and disseminating the data should be published in a format that can be understood by consumers and the format should be standardised across the vendues.

Paragraph 192 states:

*The draft RTS intentionally does not include audit costs among the costs of production and distribution of market data. The rationale is that audit costs are not directly related to the business of producing and disseminating market data, therefore such costs should be borne by the data provider and not by data clients.*

IPUG notes, that certain RTVs include cost of the audit in the audit findings. For example, Deutsche Brose charges EUR 5,000 fee for audits that have some findings.

<ESMA\_QUESTION\_CP1\_26>

**Do you agree with the proposed approach to cost calculation based on the identification of different cost categories attributable to the production and dissemination of market data (i.e. (i) infrastructure costs; (ii) connectivity costs; (iii) personnel costs; (iv) financial costs; (v) administrative costs)? Please elaborate.**

<ESMA\_QUESTION\_CP1\_27>

IPUG generally agrees with the proposed methodology. IPUG recommends that ESMA adopts a way for consumers to question any future significant cost increases that are above CPI and where the cost increase is not related to the cost and producing and disseminating the data.

<ESMA\_QUESTION\_CP1\_27>

**Do you agree with the proposal of apportioning costs based on the use of resources (i.e., infrastructure, personnel, software…) for each service provided? Do you think the methodology to be used to apportion costs should be further specified? Please elaborate.**

<ESMA\_QUESTION\_CP1\_28>

<ESMA\_QUESTION\_CP1\_28>

**Do you agree that the net profit as defined in Article 3 of the draft RTS can be a representative proxy of the margin applicable to data fees and would you include additional principles to define when a margin can be considered reasonable? Please elaborate.**

<ESMA\_QUESTION\_CP1\_29>

<ESMA\_QUESTION\_CP1\_29>

**Do you agree with the proposed template for the purpose of information reporting to NCAs on the cost of producing and disseminating data and on the margin applied to data? Please elaborate, including if further information should in your view be added to the template.**

<ESMA\_QUESTION\_CP1\_30>

<ESMA\_QUESTION\_CP1\_30>

**What are in your view the obstacles to non-discriminatory access to data taking into consideration the current data market data policies and agreements?**

<ESMA\_QUESTION\_CP1\_31>

IPUG notes that requesting a new data feed through a data vendor is a very admin resource intensive exercise. Consumers often require to provide detailed descriptions and information around use cases, locations and users even in situations where consumer requires delayed data subscription or an additional data feed, for which consumer is already licensed. IPUG would like to see some improvements in this area.

For example, if a consumer has a Data Center migration, where just a physical address of the data center is changing, a consumer is required to obtain approvals for a big number of vendues, which becomes a multi-months project with some contract change requiring for almost every single RTV.

<ESMA\_QUESTION\_CP1\_31>

**What are the elements which could affect prices in data provision (e.g. connectivity, volume)? Do they vary according to the use of data made by the user or the type of user? Please elaborate.**

<ESMA\_QUESTION\_CP1\_32>

IPUG welcomes removal of any statements in relation to charges based on the value market data represents to clients. IPUG notes that while adapting changes some RTVs are still benchmarking their prices with other RTVs and changing their policy based on the value the data represents to consumers. Some IPUG members stated that London Metal Exchange mentioned it on meetings while explaining their policy to consumers.

<ESMA\_QUESTION\_CP1\_32>

**Do you agree with ESMA’s proposal on how to set up fee categories. Please justify your answer.**

<ESMA\_QUESTION\_CP1\_33>

IPUG comments on paragraph 238 different types of connections of channels do not necessarily equates to different types of use. This is because in some cases consumers take multiple feeds for resilience purpose or due to a legacy set up and cost to migrate from one vendor to another.

<ESMA\_QUESTION\_CP1\_33>

**Regarding redistribution of market data, do you agree with the analysis of ESMA? If not, please elaborate on the possible risks you identify and possible venues to mitigate these. In your response please elaborate on actual redistribution models.**

<ESMA\_QUESTION\_CP1\_34>

IPUG members would like to note that redistributors equally contribute to the cost recovery. Redistributors are charged flat fee for the ability to be redistributor and they pay display fees for each end user access either directly to RTV or an end client pays the fees to RTVs (if a per user netting agreement is in place). IPUG recommends to standardise redistribution policies. For example, real-time redistribution for professional users. policy for non-professional users, redistribution via a public website, controlled redistribution either via web or mobile application for professional users

<ESMA\_QUESTION\_CP1\_34>

**Are there any other terms and conditions in market data agreements beyond the ones listed in this section which you perceive to be biased and/or unfair? If yes, please list them and elaborate your answer.**

<ESMA\_QUESTION\_CP1\_35>

IPUG members note that there is a rise of derived data policies. Derived data was previously included in Other Application non-display usage, but there are more instances where it is separated, and the charges apply for derived data external distribution.

For example, Euronext started charging fees for Redistribution of Original created Works Other. Euronext has 4 non-display categories and 4 derived data categories, in practical terms this means that Euronext has 8 different non-display categories which are difficult for customers to navigate and very expensive to use.

As a result of Redistribution of Original Created Works: Other category becoming fee liable a simple Post Trade application use case for client portfolio management application incurs a significantly higher fee ,then it was under Other application usage.

<ESMA\_QUESTION\_CP1\_35>

**Please provide your view on ESMA’s proposal in respect to (i) the obligation to provide pre-contractual information, (ii) general principle on fair terms, (iii) the language of the market data agreement, (iv) the market data agreement conformity with published policies and (v) the provision on fees and additional costs.**

<ESMA\_QUESTION\_CP1\_36>

IPUG requests to extend proposed 60 days notification timeline on amendments to the agreements to 90 days. IPUG members note that policy changes do not immediately reach consumers, as in some cases they are distributed via market data vendor and there is a delay between the time when exchange announces the policy and consumer is notified.

It should be noted that consumers are not able to continuously monitor RTVs websites and RTVs should notify consumer about the change and give consumer sufficient time of 90 days to analyse the impact.

Proposed 60 days is not enough, especially considering that usually RTV make changes at the same time (towards the end of the year, for policy to be effective 1st January).

ESMA states that ‘*to avoid that a unilateral amendment results in an increase of fees without the customer consent, where the amendment results in an increase of fees, the agreement should provide the user with the right to terminate the agreement, without incurring any penalties.’* IPUG notes that usually consumers are not able to terminate agreements, because there are no alternative RTVs available (this is a highly monopolistic market).

Once again IPUG asks to increase notice period to 90 days (3 months)

<ESMA\_QUESTION\_CP1\_36>

**According to your experience, has the per-user model been inserted in the market data agreements as an option for billing? If yes, do you have experience in the usage of this option? Is the proposed wording of this option in the draft RTS useful? What are in your views the obstacles to its use?**

<ESMA\_QUESTION\_CP1\_37>

IPUG members note that per user model is now offered by European RTVs. However, some RTVs implemented a burdensome, lengthy audits and (for example, for ICE Futures Europe) a full-scale audit. Other RTVs (for example, BME) require customers and vendors to produce certain type of report that vendors do not support and BME is not willing to change their policy. In other words, IPUG members note that while per user policy exists, it is not always possible to have it implemented. ESMA should note that there is usually a premium charge for being on per-user model, which does not always make it economically viable for certain businesses.

<ESMA\_QUESTION\_CP1\_37>

**Do you agree with ESMA’s proposal on penalties? Please elaborate your answer.**

<ESMA\_QUESTION\_CP1\_38>

IPUG welcomes ESMA suggestions for data provider to specify the details regarding audit practices in the data agreement. However, because agreements are non-negotiable and are generally published on the website and periodically change, IPUG would recommend ESMA to define audit guidelines in greater details.

<ESMA\_QUESTION\_CP1\_38>

**Do you agree with ESMA’s proposal on audits? Please elaborate your answer.**

<ESMA\_QUESTION\_CP1\_39>

IPUG welcomes ESMA move to define and limit audit term to 3 years. IPUG welcome the limitation of the audit process to 3 years. IPUG notes that some RTVs conduct audits for a very long time with long periods where audits are not progressed. The whole audit process currently may take 5 years to complete.

<ESMA\_QUESTION\_CP1\_39>

**Would you adopt any additional safeguards to ensure market data agreements terms and conditions are fair and unbiased? Please elaborate your answer.**

<ESMA\_QUESTION\_CP1\_40>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_40>

**Do you agree with the standardised publication template set out in Annex I of the draft RTS? Do you have any comments and suggestions to improve the standardised publication format and the accompanying instructions? Please elaborate your answer.**

<ESMA\_QUESTION\_CP1\_41>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_41>

**Do you agree with the proposed list of standard terminology and definitions? Is there any other terminology used in market data policies that would need to be standardised? If yes, please give examples and suggestions of definitions.**

<ESMA\_QUESTION\_CP1\_42>

IPUG members believe that there may be some confusion with terminology around display and non-display data.

The data is market data, display and non-display is a way how consumers use the data. IPUG suggest changing terminology display and non-display data to display license and non-display license.

Physical connection is not something that all IPUG members can count, and it is not representative of the usage pattern. Certain application may require multiple connections for resilience purposes. Number of connections can easily change through the contract term.

IPUG members propose to charge per application instead with the possibility to have an enterprise license for bigger firms (unlimited number of applications).

<ESMA\_QUESTION\_CP1\_42>

**Do you consider that the “user-id” and the “device” should still be considered as “unit of count” for the display and non-display data respectively? Do you think (an)other unit(s) of count can better identify the occurrence of costs in data provision and dissemination and if yes, which?**

<ESMA\_QUESTION\_CP1\_43>

IPUG members noted that certain US exchange offer per quote unit of count. This may be a good idea to include this policy, as some Wealth Management users may not require data very often and per user fees may be substantial for this business.

Per device definition should be standardised as it is different from exchange to exchange and may be a good alternative to per user unit of count.

<ESMA\_QUESTION\_CP1\_43>

**Do you foresee other types of connectivity that should be defined beside “physical connection” to quantify the level of data consumption? Please elaborate your answer.**

<ESMA\_QUESTION\_CP1\_44>

IPUG members do not believe that physical connection quantifies the level of data consumption. For example, Bloomberg BPIPE feed come automatically with a pair of connections for production and there are separate UAT and Development instances. This means that one Bloomberg BPIPE application may have 4 connections, this would be a standard set up regardless of how big or small the system is. Physical connections do not represent level of usage, it is often higher for resiliency, failover purposes.

<ESMA\_QUESTION\_CP1\_44>

**Do you think there is any other information that market data providers should disclose to improve the transparency on market data costs and how prices for market data are set? If yes, please provide suggestions.**

<ESMA\_QUESTION\_CP1\_45>

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<ESMA\_QUESTION\_CP1\_45>

**Do you agree with the approach on delayed data proposed by ESMA? Please elaborate your answer.**

<ESMA\_QUESTION\_CP1\_46>

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<ESMA\_QUESTION\_CP1\_46>

**Do you agree with the proposal not to require any type of registration to access delayed data? Please elaborate your answer.**

<ESMA\_QUESTION\_CP1\_47>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_47>

**ESMA proposes the RTS to enter into force 3 months after publication in the OJ to allow for sufficient time for preparation and amendments to be made by the industry. Would you agree? Would you suggest a different or no preparation time? Please elaborate your answer.**

<ESMA\_QUESTION\_CP1\_48>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_48>

**Do you have any further comment or suggestion on the draft RTS? Please elaborate your answer.**

<ESMA\_QUESTION\_CP1\_49>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CP1\_49>

**What level of resources (financial and other) would be required to implement and comply with the RTS and for which related cost (please distinguish between one off and ongoing costs)? When responding to this question, please provide information on the size, internal set-up and the nature, scale and complexity of the activities of your organisation, where relevant.**

<ESMA\_QUESTION\_CP1\_50>

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<ESMA\_QUESTION\_CP1\_50>