

ACER consultation on barriers to efficient price formation and easy participation in European electricity markets



EFET response – 23 October 2020

The European Federation of Energy Traders (EFET*) welcomes the opportunity to provide our comments on the consultation on barriers to efficient price formation and easy participation in European electricity markets.

In accordance with Article 3 of Regulation (EU) 2019/943 (the ‘Electricity Regulation’), Member States, national regulatory authorities (NRAs), transmission system operators (TSOs), distribution system operators (DSOs), market operators and delegated operators must ensure that electricity market rules encourage free formation of prices and avoid actions which prevent the formation of prices on the basis of demand and supply.

EFET wholeheartedly welcomed this new provision of the recast Electricity Regulation. Indeed, **only undistorted prices give an accurate signal for bidding and dispatch decisions and can serve as a sound basis for investment and divestment decisions on the other hand¹.**

With an increasing share of intermittent power generation in the European energy mix, precise price signals are needed more than ever to ensure the reactivity of market participants’ bidding and dispatch decisions to rapidly changing demand and supply conditions. The development of extra peaking generation units, storage solutions (including power to X assets), demand-side management, and other types of flexible assets and services may only materialise if electricity prices accurately reflect the true value of energy – including all its fluctuations – and if economic actors do not face undue barriers to enter electricity markets. Accurate price signals will allow market participants to identify the nature and timing of such investments alongside more traditional investment in generation and transmission capacity.

The use of market-based mechanisms in improving the quality of price signals in the electricity market should remain paramount. The liberalisation of the electricity sector and the

¹ See also [EFET paper on price formation and capacity withholding in light of Regulation \(EU\) 2019/943 and Regulation \(EU\) 1227/2011](#) and [The importance of free formation of prices in the European wholesale electricity market \(2016\) – EFET Discussion Paper](#)

development of electricity markets have been contributing to a cost-efficient operation of the sector. They continue to help us reach the objective of bringing affordable electricity to end-consumers. But markets can also help us reach the other objectives of sustainability and security of supply enshrined in European legislation. The pursuit of the three main goals of the internal energy market should therefore favour market-based solutions.

The development of RES-E capacities has, at least at the start, largely happened outside of the electricity market. RES-E operators enjoyed a series of physical privileges on the grid (lack of balancing responsibility, priority dispatch and priority access) combined with support schemes without any link to the energy market (feed-in tariffs did not foresee the need for RES-E operators to sell their energy on the market). This has withdrawn large amounts of liquidity from the market in all timeframes.

While the new Electricity Regulation 2019/943 and Renewables Directive 2018/2001 foresee the end of feed-in tariffs, balancing responsibility for all and the phase out of priority dispatch, these privileges are grandfathered for existing assets (and maintained for small installations). The move towards a true level-playing field and contribution of all RES-E capacities to price formation in all timeframes will only be gradual. And even then, guaranteed revenues based on newer types of subsidy schemes (e.g. feed-in premiums, CfDs) will discourage RES-E operators from joining the forward market.

On capacity remuneration mechanisms (CRMs) ACER notes that in 2019, their overall cost across the EU increased by 73% compared to 2018, reaching 3.9 billion Euros. Based on the results of CRM auctions held in several countries for delivery in 2020 and beyond, the total amount to finance CRMs will likely continue to grow².

EFET has long been calling on policy makers to adapt legislative and regulatory measures to safeguard competition in generation and supply and ensure market liquidity. These measures will facilitate the proper functioning of the energy-only market and allow it to give the best possible dispatch and investment signals. This EFET position mirrors that of the new CRM provisions in the Clean Energy Package, where decisions to implement or maintain any form of remuneration scheme to reward the availability of capacity (*i.e.* CRMs) should be taken only based on a thorough capacity adequacy assessment performed at regional and EU level and should be limited in time³.

We reiterate that the development of CRMs should in no way be an excuse to relinquish efforts to improve the energy market design – this includes the integration of renewable energy into the wholesale market, liquid and efficient (cross-border) markets in all timeframes, harmonisation of balancing products and arrangements across bidding zones and effective competition in the retail sector.

² See [ACER-CEER Market Monitoring Report 2019 – Electricity Wholesale Markets Volume](#)

³ See also [2020 State of the Energy Union report - European Commission](#)

Definitions

Q1. *Please provide a definition of what you consider as “barrier to market entry and participation” in electricity markets. The definition should be generic. You will be invited to provide specific examples in the subsequent sections.*

In recent years, several competition scholars have concluded that the debate about entry barriers should be considered irrelevant to competition policy⁴. They argue that abstract, theoretical pondering on the definition of barriers to entry is unlikely to be very helpful in investigations and policy decisions. What matters in actual cases is not whether an impediment matches this or that definition of an entry barrier, but rather whether, when, and to what extent market entry is likely to occur given the facts in each case.

However, EFET tried before to answer the question of what we consider as “barriers to market entry and participation”. We find that the main barriers to market entry can be categorised into four types:

- barriers to local trading (licensing or local entity obligations),
- illiquid forward and intraday markets,
- cross-border discriminations (import/export bans, obligations to bid on local platform),
- caps and floors on offer/bid and clearing prices.

Q2. *Please define: Efficient price formation of electricity (MWh) products.*

Pricing in electricity markets follows the basic economic principle that prices are formed by supply and demand, i.e. that buyers and sellers decide when to buy or sell, at what price, for which volumes and for what period. Market participants should be able to take positions across the different segments of the market both in time as well as across borders, as speculation is also necessary to foster efficient price formation and liquidity across the different segments of the market. As a result, **prices should be allowed to fluctuate freely and reflect the true value of scarcity during times of system stress and high demand for power; similarly, prices should reflect the value of surplus in times of low demand for power.**

The volatility of electricity prices, when not induced by flaws in the market design, is a sign that the market reacts properly and fast to demand and supply signals. When flaws in market design are identified, removing these distortions to the free formation of prices should be a priority for Member States, NRAs, TSOs, DSOs and nominated electricity market operators (NEMOs).

Prices in the electricity market should reflect the value of energy in real time – or expectations thereof in the intraday, day-ahead and forward timeframes – in a transparent manner. Increasing the efficiency of the market will improve price signals in wholesale markets during

⁴ See <https://www.oecd.org/daf/competition/abuse/36344429.pdf>

episodes of scarcity or surplus. This will ensure that all types of capacity (generation, demand and storage) can be used properly and valued based on a level-playing field.

Interventions in the market and in the free formation of prices should be avoided. Clearing price limits, but also caps and floors on offer and bid prices, should be removed as soon as possible. In the event where certain interventions in the market are unavoidable, due consideration must be given to the impact of such interventions on the formation of prices.

Q3. *Which aspects, among those included in your definition above may specifically prevent prices from reflecting actual scarcity? You may cover additional aspects that may be relevant for price formation at times of scarcity.*

As a matter of principle, the pricing of electricity must always reflect the physical balance of the electricity system. Market participants are responsible for balancing their sales and purchases of electricity and shall bear the financial consequences of any imbalance, which is eventually settled with the system operator at the imbalance price.

In order to give market participants the correct incentive to balance their portfolio, it is crucial that the imbalance price, in line with the Electricity Regulation, reflects the real-time value of electricity, taking into account the physical reality of the assets connected to the grid. The closer to delivery (real-time), the more volatile prices may be and the more likely it is for price spikes to arise, as they legitimately reflect any imbalances in the electricity system. In the extreme case of actual physical scarcity (where the TSO has to decrease the load to maintain the supply-demand balance), the imbalance price must reflect the value of lost load (VoLL). This means that in such cases the imbalance price should be set at least at an estimate of that VoLL.

A scarcity situation does not mean that the market will not perform its duties. Standard market rules should guarantee the functioning of the energy markets and the contribution of all relevant capacities to security of supply and system security. In fact, a scarcity situation should not be suppressed as long as capacities are available, regardless of the cost of activation. NRAs should ensure that TSOs refrain, as far as possible, from suspending markets, curtailing interconnection or taking any other out-of-market measure. If TSOs have to take such actions and if such actions are likely to affect the market price, NRAs must take measures to avoid or correct the impact of these TSO actions on the electricity price.

More specifically, the following factors may specifically prevent prices from reflecting actual scarcity:

- poorly designed imbalance prices with added artificial components that blur the true value of energy in real time
- regulatory price limits (including offer/bid price limits)
- capacity mechanisms
- national renewables support schemes – especially non-market based schemes

Finally, an excessively restrictive market design – or application thereof (e.g. 5th Edition of ACERs Guidance on REMIT Application) – could cause market participants to take an overly conservative approach in their bidding behaviour, in order to avoid risks of penalties and enquiries by regulators. Such an overly careful attitude would harm the ability of the market to let price spikes materialise and to properly respond to this signal. As a result, necessary

investments in flexible capacity and innovative energy services may not happen, as associated development and investment costs may never be recovered.

Barriers to efficient price formation

Barrier 1: Presence of price caps, bidding limits* and/or price regulation in any market timeframe

Please describe the barrier or complement the description of the heading

Bidding limits

REMIT interpretation and enforcement

Please rate the importance of this barrier

High/Medium/Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/No

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Bidding caps and floors on DA and ID markets in Iberia, Italy – in addition to the clearing price limits set by ACER in Decisions 04-2017 and 05-2017, and in violation of Article 10 Regulation (EU) 2019/943
 - ii) 0-180 €/MWh, 0-3000 €/MWh
 - iii) All market participants in the Iberian and Italian DA and ID markets, affecting price formation in the entire SDAC and SIDC areas. The price floor at 0 €/MWh in DA and ID in Italy should be removed with the participation in XBID foreseen in Q1 2021
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- i) REMIT interpretation and enforcement in the EU
 - ii) EFET has supported the introduction of REMIT since its inception, as a necessary element of EU market design guaranteeing transparency and good conduct in the market. However, the vagueness of some of its provisions – e.g. on intraday capacity hoarding – have led to the introduction of “indirect price regulation”. In particular, the uncertain application of these provisions has the undesirable effect that participants take an overly conservative approach to avoid any risk of penalties or lengthy investigations thereby restraining their bidding behaviour. As a result, price formation is distorted and scarcity/surplus pricing may not occur even where it should.
 - iii) All market participants in the EU

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier specific to some countries with pan-European implications.

Pan-European barrier

Barrier 2: Restrictions to the amount of capacity available for cross-zonal trade

Please describe the barrier or complement the description of the heading

Curtailments on cross-border capacities

Outdated procedures

Please rate the importance of this barrier

High/Medium/Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/No

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Italy, Greece, CWE, Poland, Hungary
 - ii) Italy: recurrent curtailments on IT NORTH borders, the latest example of which during the Spring and Summer of 2020.
CWE: average capacity availability in CWE (see ACER MMR reports).
Poland: little capacity available at Polish borders. In Hungary, market participants experience a lack of firmness with regards to allocated transmission capacity, without significant improvements since the German/Austrian bidding zone split.
Greece: the XBMS (Cross Border Management System)/ DAMAS imposes the following obligations on market participants: Long term (LT) nomination files: market participants must send a file per each border where a given transaction has taken place, each with a different mRID. Short term nomination files: market participants must send a file per each border, each with different mRID (different from the LT mRIDs). The use of a web form for daily operations can be extremely time consuming and cumbersome for market participants. Apart from that, it increases the risks of mistakes being made, as all information has to be filed manually. Web services could help simplifying the process, but they have not been developed yet. In any case, market participants would still be required to file nominations per each border.
 - iii) All market participants in Italy, Greece, CWE, Poland, Hungary.
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- i) All countries with borders to non-EU countries (i.e. Switzerland)
 - ii) Inefficient XB-capacity allocation with third countries leading to inefficient price formation.
 - iii) All market participants trading with third countries, with an effect of SDAC and SIDC.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier specific to some countries with pan-European implications.

Barrier 3: Poorly designed or discriminatory network tariffs

Please describe the barrier or complement the description of the heading

Regulatory period starts in the middle of the year

Parliament and Government interference in NRA powers

Please rate the importance of this barrier

High/**Medium**/Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/**No**

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Bulgaria
- ii) Market tariffs (network tariffs, fees, premiums, regulated market tariffs, etc.) are changed every year on 1st of July. Hence for trading companies it is hard to make strategic planning on annual basis, because they do not know the tariffs for the second half of the year.
- iii) All market participants in Bulgaria.

- i) Romania
- ii) Interference by Ministerial authorities into NRA powers by defining key aspects of secondary legislation represents a significant regulatory risk with consequent disincentives for market participation, and significant detrimental impact on market liquidity, functioning and stability.
- iii) All market participants in Romania.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier witnessed in some countries.

Barrier 4: Barriers to formation of balancing energy prices and/or related to the imbalance settlement mechanism

Please describe the barrier or complement the description of the heading

Inefficient and not transparent balancing market

Limitations to intraday market

No harmonisation on imbalance prices

Please rate the importance of this barrier

High/Medium/Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/No

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) All Member States.
- ii) No harmonization of roles of BRPs and of TSOs in the balancing time frame and the setting of imbalance prices. This concerns:
 - Combination of balancing energy prices from different processes (marginal price vs. volume weighted average price) in the setting of their contribution to the imbalance price
 - Additional elements added to the imbalance price that are not related to the value of energy in real time (e.g. scarcity pricing add-on, incentive components, TSO balancing account adjustment factors). See snapshot of the TSOs significantly diverging approaches in slide 20 of the presentation at: https://www.entsoe.eu/Documents/MC%20documents/balancing_ancillary/2018-09-19/180919_Webinar_imbalance_settlement.pptx.
 - Lack of real time information on the state of the system by the TSOs in most Member States.
 - Unclearly on possibilities for system support balancing by market participants (no common interpretation of article 17.1 of the Electricity Balancing Guideline at EU level).
 - Unclearly on criteria to announce emergency state and impact of actions by TSOs in emergency state on market prices (in particular on imbalance prices)
 - see: https://docs.entsoe.eu/fa_IR/dataset/05-03-2019-market-european-stakeholder-committee/resource/f269227a-5bd6-4d3c-a43c-1d225c785908.
- iii) All market participants in the EU.
 - i) Inefficient balancing market in Bulgaria, Greece, Hungary
 - ii) In Bulgaria balancing market prices do not reflect the real conditions of the power system. No incentives for market participants (mainly GenCos) to place bids and offers for balancing services. Balancing prices are published with more than one month delay. No information about the balance of the system is published. Market participants do not know when the power system is in surplus or in shortage. In Hungary the right of MAVIR to exclude market participants from a balancing circle after 2 after 2 imbalances within 6 months has disproportionately high operational risks for physical power traders. Greece keeps postponing its market reform and the new model has a number of shortcomings.
 - iii) All market participants in Bulgaria, Greece, Hungary.
 - i) Limitations to intraday in Italy, Czech Republic, Greece

- ii) The gate closure time (GCT) for intraday in the organised market is too far away from real time (from 5 hours to 1 hour before delivery). This creates an obstacle for balancing positions shortly before the delivery and increases potential imbalances.
- iii) All market participants in Italy, Czech Republic, Greece.

- i) Limitations to intraday in Germany
- ii) 50MW open position limit in ID from 2 hours until 15 minutes before delivery, which affects their ability to optimise their portfolio close to real time.
- iii) All market participants in Germany – derogations may be requested but the process is not coordinated between the different TSOs, giving them too wide a discretion when applying derogations.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Pan-European barrier and

Barriers specific to some countries with pan-European implications

Barrier 5: Restrictions to entry, exit and/or participation in electricity markets for specific market players or assets

Please describe the barrier or complement the description of the heading

Exchange trading obligations

One market operator

Please rate the importance of this barrier

High/Medium/Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/No

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Poland
- ii) A 100% exchange trading obligation imposed on major producers that has been suddenly imposed on the market back in 2018. High transaction fees apply. Requirements for membership in the Polish power exchanges: Permission from Polish Financial Supervisory Authority (PSFA), unclear PX status under MiFID II. Time consuming requirement. Withholding liquidity, as for companies without a presence in Poland, it is difficult to fulfil such requirements. Market participants find it difficult to influence the development of the market. High membership and trading-related fees at the WCCH, hindering smaller players from entering the market.
- iii) Traders, foreign market participants

- i) Romania

- ii) Market design does not enable forward transactions on other platforms than OPCOM and thus limits hedging. OTC brokers banned. Market design highly limit bilateral transactions outside OPCOM and is thus blocking non-standard physical/financial products (e.g. options). The Electricity and Gas Law prevents producers from selling outside the centralised market. Despite Regulation 943/2019 and ANRE Order 236/2019 (which enables trading on 'non-regulated markets'), ANRE Order 65/2020 limits "long-term supply contracts" (which should be negotiable over-the-counter as per Art. 3.o) of Regulation 2019/943) to those with delivery duration longer than one year, thereby significantly limiting free bilateral contract negotiation (and effectively preserving the 'ban on bilateral trading').
- iii) New market participants

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barriers witnessed in some countries.

Barrier 6: Inefficient design of bidding zones

Note: A design of bidding zones can be understood as inefficient if it does not meet the Article 14 of the recast Electricity Regulation that states that "Bidding zone borders shall be based on long-term, structural congestions in the transmission network. Bidding zones shall not contain such structural congestions unless they have no impact on neighbouring bidding zones, or, as a temporary exemption, their impact on neighbouring bidding zones is mitigated through the use of remedial actions and those structural congestions do not lead to reductions of cross-zonal trading capacity in accordance with the requirements of Article 16. The configuration of bidding zones in the Union shall be designed in such a way as to maximise economic efficiency and to maximise cross-zonal trading opportunities in accordance with Article 16, while maintaining security of supply."

Please describe the barrier or complement the description of the heading

See [EFET position paper on bidding zones - Lessons from the past and recommendations for the future](#) and [EFET reaction to the DNV GL study on the impact of bidding zones redelineation on liquidity and transaction costs](#)

Please rate the importance of this barrier

High / **Medium** / Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/No

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Sweden, Germany/Austria, Italy
- ii) Bidding zones splits reduce market liquidity in smaller newly created zones, especially in the forward market. This affects on retail competition as well. See details on Sweden at:

https://efet.org/Files/Documents/Electricity%20Market/General%20market%20design%20and%20governance/EFET-memo_Swedish-zones-reform.pdf.

- iii) All market participants in Sweden, Austria, Italy.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier specific to some countries with pan-European implications.

Barrier 7: Existence of capacity mechanisms

Note: This barrier refers to all types of capacity mechanisms described in the chapter 3 of the Staff Working Document accompanying the EC Final Report of the Sector Inquiry on Capacity Mechanisms.

Please describe the barrier or complement the description of the heading

Cross-border participation in CMs

Strike price impact on wholesale trading

Strategic reserves

Please rate the importance of this barrier

High/Medium/Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/No

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) All Member States with a capacity remuneration mechanism (CRM), including strategic reserves (UK, France, Germany, Ireland, Italy, Belgium, Poland, Lithuania, Sweden, Finland, Bulgaria).
 - ii) By remunerating capacity, CRMs (depending on their design) have the potential to suppress part of the price signal stemming from the energy market. Beside the lack of cross-border participation in CRMs (no CM in Europe foresees the possibility for foreign market participants to directly participate in them) creates an uneven playing-field.
 - iii) All market participants in the EU.
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- i) Italy
 - ii) Italy CRM strike price based on OCGT variable costs will have a direct impact on wholesale trading by acting as an implicit cap on the energy market hindering the free formation of prices; ultimately this will also prevent the emergence of any scarcity price signal in the day ahead and the ancillary services markets and fails to incentivize the development of demand response and its participation to the capacity mechanism.
 - iii) All market participants in Italy; impact on price formation in the whole SDAC area.
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- i) Belgium

- ii) The Belgian strategic reserve foresees an automatic increase of the imbalance price at EUR 45,000(?)/MWh when the EUR 3,000/MWh limit in DA is reached, without regard for the actual value of energy in real time (i.e. 6 to 30 hours after the DA limit was reached).
- iii) All market participants

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier specific to some countries with pan-European implications

Barrier 8: Existence of RES support schemes

Please describe the barrier or complement the description of the heading

Long-term support schemes

Please rate the importance of this barrier

High/Medium/Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/No

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Most Member States (especially those supporting RES-E with feed-in tariffs).
- ii) RES-E support schemes that do not have any link to the energy market and do not foresee the need for RES-E operators to sell their energy on the market (feed-in tariffs) withdraw liquidity in all timeframes of the electricity market.
All other RES-E support schemes, because of the way they secure revenues for RES-E operators whichever the DA price, also limit the need for forward hedging and thus reduce liquidity in forward markets. This liquidity that escapes the market (from the forward market for all schemes, or all timeframes in the case of feed-in tariffs) has a negative impact on price formation.
- iii) All market participants

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Pan-European barrier.

Barrier 9: Lack of or wrong locational signals in the transmission and/or distribution tariffs

Note: For additional information, please refer to:

ACER Practice report on transmission tariff methodologies in Europe, 2019,

CEER Paper on Electricity Distribution Tariffs Supporting the Energy Transition, 2020

Please describe the barrier or complement the description of the heading

Please rate the importance of this barrier

High/Medium/Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/No

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier 10: Limited use of dynamic prices in retail/end user contracts

Please describe the barrier or complement the description of the heading

Hybrid market model with tariff market and liberalized market

Non-market measures disrupting the freedom of price formation

Delay in smart meter roll-out

End consumer price regulation

Please rate the importance of this barrier

High/Medium/Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/No

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Bulgaria
 - ii) The price differences on the tariff and the liberalized market are significant. Prices on the tariff market are not directly influenced by the market prices.
 - iii) All market participants in Bulgaria.
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- i) Poland
 - ii) Freezing the end- customer prices retroactively and at different levels observed for 2019, applying to all (existing and new) contracts (both at the Exchange and OTC). Similar discussions (narrowed scope) in 2020. Wholesale price in many instances was higher than the price offered to retail end-customers leading to insolvencies.
 - iii) All market participants in Poland.

- i) End consumer price regulation in France, Italy, Portugal, Poland, Hungary, Greece, UK, Spain, Bulgaria, Lithuania, Cyprus and Latvia⁵.
- ii) Regulating retail prices impedes consumers from realising the true value of the electricity they consume, thus undermining the potential of demand response. Retail price regulation is also a serious obstacle to competition among electricity supply companies. It reduces the incentive for companies to become more efficient. It also discourages the emergence of new market participants and it stifles the development of value-added services, including dynamic pricing.
In addition to their negative impact on retail markets, regulated prices also distort the functioning of the wholesale markets, limiting and partly undermining the price formation process: limited competition between retail suppliers also decreases demand liquidity in the wholesale market. Given that the EU's internal energy market is interconnected and interdependent, regulated prices in one Member State also have an impact on price formation in other Member States.
- iii) All market participants in the given countries.
 - i) Most Member States
 - ii) The roll-out of smart meters has been slow in most Member States, though they are an important condition for a more active participation of consumers to the market.
 - iii) All market participants.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier witnessed in some countries.

Barrier 11: Insufficient level of liquidity in any market timeframe

Please describe the barrier or complement the description of the heading

Liquidity in forward and intraday markets

Please rate the importance of this barrier

High/Medium/Low

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/No

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Most Member States
- ii) Trading volumes, churn ratios

⁵ See <https://www.ceer.eu/documents/104400/-/-/5c492f87-c88f-6c78-5852-43f1f13c89e4>

iii) All market participants

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Pan-European barrier

Barrier 12: Other barrier

Please describe the barrier or complement the description of the heading

Annual NRA fees

Please rate the importance of this barrier

High/Medium/**Low**

Does this barrier specifically prevent prices from reflecting actual scarcity?

Yes/**No**

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Italy, Bulgaria, Croatia, Hungary, Poland, Romania
- ii) Unnecessary administrative requirement according to which market participants are charged based on their turnover (sales transactions). Market participants should not be charged based on the transactions they make. This might create disincentives to trading. Such fees artificially distort wholesale price signals.
- iii) All market participants Italy, Bulgaria, Croatia, Hungary, Poland, Romania.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barriers witnessed in some countries

Barriers to market entry and participation for new entrants and small players

Barrier 1: Lack of an adequate national strategy and/or implementation plan to promote the entry and participation of flexibility resources in all market timeframes

Please describe the barrier or complement the description of the heading

Use-it-or-lose-it principles of allocated interconnection capacity.

Artificial limitation of flexible products

Withholding interconnection capacity.

Please rate the importance of this barrier

High/**Medium**/Low

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Bulgaria, Poland
 - ii) In Bulgaria all electricity transactions involving electricity generators having a total installed capacity in BG over 1 MW must be concluded exclusively through IBEX. This creates a monopoly platform and enables IBEX to abuse its dominant position.
Little capacity at the Polish interconnections.
 - iii) All market participants
-
- i) Romania
 - ii) Current market design highly limits the flexibility of traded products, due to restrictions on bilateral trading (see also Barrier 5) and the OPCOM PCCB-LE-Flex platform permitting only limited flexibility of traded products.
 - iii) All market participants

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier specific to some countries with pan-European implications.

Barrier 2: Lack of a legal framework defining roles and responsibilities of flexibility resources

Please describe the barrier or complement the description of the heading

Please rate the importance of this barrier

High/Medium/**Low**

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

No barrier

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier 3: Complex administrative and permitting procedures

Please describe the barrier or complement the description of the heading

Administrative reporting to Ministries or NRAs

Please rate the importance of this barrier

High/**Medium**/Low

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Italy, Spain, Bulgaria, Greece, Hungary, Poland, Romania, Slovakia
- ii) Time consuming requirement. Uncertainty preparation of a large number of financial statements and trading data for activities in specific countries.
- iii) All market participants in Italy, Spain, Bulgaria, Greece, Hungary, Poland, Romania, Slovakia.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier witnessed in some countries.

Barrier 4: Technical (e.g. qualification process) or market (e.g. size or granularity of the product) requirements hindering market entry and/or participation in all market timeframes

Please describe the barrier or complement the description of the heading

No comments

Please rate the importance of this barrier

High/Medium/**Low**

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier 5: Discriminatory licensing and tax arrangements for non-domestic actors

Please describe the barrier or complement the description of the heading

Requirements for obtaining a licence with Ministries, NRAs or TSOs.

Establishments of local offices.

Please rate the importance of this barrier

High/Medium/Low

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Licence required in Bulgaria, Croatia, Czech Republic, Greece, Hungary, Poland, Romania, Slovakia
 - ii) Unnecessary bureaucracy. Administrative entry barrier that hinders the development of the market and liquidity. Time consuming requirement. Barrier to entry the market for the companies legally established in EU member state or Contracting Parties of the Energy Community.
 - iii) Foreign market participants in Bulgaria, Croatia, Czech Republic, Greece, Hungary, Poland, Romania, Slovakia
-
- i) Local offices required in Czech Republic, Hungary
 - ii) Administrative obstacle (with tax risks) reducing attractiveness of the market for foreign traders.
 - iii) Foreign market participants in Czech Republic, Hungary.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier specific to some countries with pan-European implications.

Barrier 6: Discriminatory access and connection to the network and/or discriminatory design of network charges

Please describe the barrier or complement the description of the heading

No comments

Please rate the importance of this barrier

High/Medium/Low

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

We have not identified such behaviour, which, as the case may be, could indeed be a significant barrier to market entry.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier 7: Discriminatory grid code requirements for distributed assets

Please describe the barrier or complement the description of the heading

No comments

Please rate the importance of this barrier

High/Medium/**Low**

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier 8: Grid tariff design discouraging for offering (distributed) flexibility

Please describe the barrier or complement the description of the heading

No comments

Please rate the importance of this barrier

High/Medium/**Low**

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier 9: Lack of transparency and availability of relevant information to entry and participate in all market timeframes

Please describe the barrier or complement the description of the heading

English language, outdated procedures, late publication of generation unit outages

Please rate the importance of this barrier

High/**Medium**/Low

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Austria, Bulgaria, Hungary, Spain, Poland, Romania, Slovakia

- ii) Language barriers on NRAs/TSOs public webpage. In Austria capacity reservation has to be executed by phone (introduction of a centralised explicit capacity allocation mechanism is pending). Scheduling nominations are only possible by email.
In Romania there is no timestamp on the TSO transparency platform and outages are published late.
- iii) Foreign market participants
 - i) Czech Republic
 - ii) CEPS announced they will withhold information on their IGM in the framework of Core FB market coupling, against all recommendations of ACER/NRAs and best practice of other Core TSOs
 - iii) All market participants in the Core CCR.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Pan-European barrier.

Barrier 10: Other barrier

Please describe the barrier or complement the description of the heading

Close Contract Reporting Fee

Please rate the importance of this barrier

High/Medium/**Low**

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Slovenia, Croatia
- ii) In Slovenia each closed contract must be reported and fees must be paid (0,05 €/MWh).
In Croatia the scheduling fee imposes additional costs.
- iii) All market participants in Slovenia, Croatia.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier witnessed in a given country

Barrier 11: Other barrier

Please describe the barrier or complement the description of the heading

Restrictions to exit in electricity markets for specific market players or assets

Please rate the importance of this barrier

High/Medium/Low

Please provide one or more real examples. Please specify to the possible extent the following: i) Member State/s where the barrier takes place, ii) some indicators to measure the barrier, iii) Type of market participants that may be specifically impacted by such a barrier.

- i) Spain, Germany, Italy
- ii) Market participants are facing the situation of having generation plants that would like to close and the path to get this is too long and not always feasible. This is also the case for mothballing, which is included as an option in the Act of the sector by no provision has been issued yet to develop mothballing and requests from the agents are simply filed with no response.
Similar restrictions apply to asset owners in strategic regions in Germany, who cannot freely exit the market.
- iii) Specific asset owners in Spain, Germany, Italy.

Please specify, in addition, the geographical scope of relevance of the barrier: Whether it is a barrier witnessed in a given country or some countries, a pan-European barrier, or a barrier specific to some countries with pan-European implications.

Barrier witnessed in some countries

Conclusion

Q1. *What are, in your view, the three most important barriers to market entry and participation for new players and small actors in the electricity markets, in your country and in the EU?*

- 1. Discriminatory licensing and tax arrangements for non-domestic actors
- 2. Lack of transparency and availability of relevant information facilitating market entry and participation in all market timeframes
- 3. Discrimination towards non-domestic market participants and limitations to cross-border trading

Q2. *What are, in your view, the three most important barriers to efficient price formation in the wholesale electricity markets, in your country and in the EU?*

- 1. Barriers to the formation of balancing energy prices and/or related to the imbalance settlement mechanism and on the spot markets
- 2. Restrictions to the amount of capacity available for cross-zonal trading
- 3. Illiquid forward and intraday markets

Q3. *Any other comment*

It appears that the intention of the consultant is to develop two composite scores – one for price formation, the other for market entry. A few reflections on this:

- The difficulty of creating composite scores is how to combine different indicators (weights).
- Some indicators may be of such importance (e.g. setup of the imbalance settlement price for price formation) that scoring well on other indicators may be of little importance if Member States score poorly on the former. The combination of indicators may foresee different weights for each indicator depending whether it is positive or negative (e.g. a Member State with poorly designed imbalance price should systematically score below average even if it scores well on other criteria; the other criteria may weigh heavier only if the imbalance price properly reflects the true value of energy in real time).
- In any case, it is important that the methodology foresees the publication of details on each indicator to ensure that all interested parties can go further than the aggregated score.
- A benchmark should be developed for the two scores in order to compare countries not only with each other, but also in relation to the target model set at European level. This would ensure that all countries continue to strive for improved price formation and market entry conditions, irrespective of whether they are performing better than their counterparts.