

The background is a dark blue image of the Earth from space, with glowing blue lines representing energy or data connections crisscrossing the globe.

Commodity access – enhancing wholesale market liquidity?

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Market integration - central aim of the Energy Community

Liberalization & reforms at national level taking into account the regional and pan-European integration objective

- *2003-2004: CEER Standard Market Design*
“based on harmonized set of rules with regional market mechanisms that would operate as supplementary mechanisms of the national electricity markets, with suppliers and generators who could operate on a larger on an equal basis in a wider regional energy market instead of a narrow national market and where electricity will flow among the countries of the region as it was flowing within a single country”
- *combining bilateral physical contracts & spot market*
- *2008 – first retail market opening for large customers, for which wholesale competition & capacity allocation was precondition*

2018 status quo

- *national markets (still) dominated by incumbent undertakings with exclusive access to energy resources*
- *bilateral contracts main instruments*
- *not all CPs participating to a joint capacity allocation*
- *vertical foreclosure through regulated agreements*
- *generation price regulation still persisting*
- *number of traders - not negligible*
- *BUT organized DAM - Serbia PX, others (AL, MNE..)*
- *several regional integration projects - market coupling*

ECS Policy Guidelines 2015; need for new guidance on concrete measures



❑ 2015 PG on *Promotion of Organised Electricity Markets in the Contracting Parties*

- removal of the legal and factual barriers to electricity market integration and liberalization
- the need for establishing electricity markets that would allow market coupling

Coupling of the DAM of small, illiquid & incumbent-dominated markets of the CPs => single best means to bring liquidity into the SEE region and allow for competitive price formation.

❑ **2018** ECS to recommend practical steps necessary for creation of coupled (regional) electricity market:

- **which preconditions would have to be fulfilled at national level in order for the Contracting Parties to comply with the European electricity target model** by recommending different market designs for organizing national electricity markets taking into account the need for their harmonization (WB6 national projects)
- **legal and regulatory measures for introducing competition at national level + measures for introducing liquidity in power exchanges**

- ❑ **Ex-ante regulatory measures** that may be imposed on certain operators in order to promote effective competition at wholesale level, in markets characterized by high and non-transitory barriers to entry as well as directly enhancing PX liquidity
- ❑ **Barriers** to be addressed:
 - structural
 - legal or regulatory
 - combination of both.
- ❑ **NRA (and other authorities) competences**

Based on EU Member States' experience...

1. designed **to limit the influence of operators with significant market power** eliminating the barriers to entry / cost advantages, or to reinforce small players;
2. aiming to eliminate cross-subsidies, margin squeezes or concerted actions between **vertically integrated undertakings**;
3. directly **enhance liquidity on organized markets**;
4. aimed at preventing abuse of **market power on the PX or by the PX**

- ❑ Measures that are designed to limit the influence of operators with significant market power or to reinforce small players [*Could allow customers to benefit from advantages of the historic investments, while at the same time allowing liberalization by transferring cost advantage to suppliers/new entrants*]

- ✓ **regulated access to historic nuclear in France (ARENH);**

Price & volume of regulated products are set administratively: incumbent *EDF* was obliged to sell up to 100 TWh of its nuclear production (approx. 25% of its production) to its competitors, upon demand, on annual basis.

- ✓ **Virtual Power Plants auctions;**

Regulated volume-based mechanism, which only set the volumes of the regulated product and allocate the products to those who value them most. Requirement / commitment imposed on generators (usually dominant) to sell proportion of their output of a power plant through a specified auction process, mostly to competitors. [*FR: 5400MW in 2001; BE – 1200MW in 2004*]

- ✓ **access to lignite or big hydro designed by the Greek regulator;** [combination of ARENH and VPPs]

- ✓ **direct-trading obligations.**

Large generators imposed an obligation to trade on equivalent or comparable fair terms with eligible suppliers (usually small suppliers meeting pre-determined transparently set criteria) [*Market Supplier Access in UK; ref price – telecom*]

- ❑ Measures that aim to eliminate cross-subsidies, margin squeezes or concerted actions between vertically integrated undertakings

... in addition to the measures 1 most of which are also suitable for VIU ...

- ✓ self-restriction obligations;

imposing obligation to purchase a certain portion of their wholesale needs through the market, preventing being fully supplied by their own integrated undertaking / group – may be set as a % of total sales on a monthly basis.

- ✓ non-discrimination obligations;
- ✓ requirements for accounting separation.

- ❑ Measures that directly enhance liquidity on organized markets:
 - obligation to offer for sale or
 - obligation to trade certain volumes of electricity on organized markets,
 - market-maker obligation

- ✓ symmetrically or asymmetrically;
- ✓ on seller's side, on buyers' side or on both seller's side and buyer's side;
- ✓ could be imposed for ex. on: **RES producers** as a pre-condition to benefit from support; generators' that are to benefit from compensation funds **for stranded costs**; as a precondition for **access to cross-border capacity** – if allocated via implicit auctions; **TSO/DSO** for losses...

- ✓ obligations imposed for overall volumes traded on a PX without pre-determining specified volumes for specific segments/market or targeting one specific platform which is less liquid than other market segments;

- ✓ By setting for instance:
 - max offer price at DA auctions covering variable costs of the producers;
 - volumes to be offered - equal to certain pre-determined % of overall volumes generated or traded or supplied (over 1-year period).

- ✓ **Proportionality** principle – measures to be limited in time, for a period long enough for the PX to establish itself and become a recognized and liquid market;
- ✓ Should allow for a **flexible review** clause, and should designate competent authorities that may adopt modifications or revoke the mandatory sales or auctions;
- ✓ Significant impact on the development of wholesale market and PX liquidity in countries where those were introduced.

PL: PX trade - 2009 = insignificant; 2010 = 4.2%, 2011 = 58.7%; 2012 = 61.8%;

OTC bilateral contracts – 2010 = 89.8%; 2011 = 40% and OTC in-group electricity trade - 2010 = 72,2% of overall sales, 2011 = 18,9%

Measures 4

- ❑ Measures aimed at preventing abuse of market power on the PX because of:
 - ✓ manipulating price-formation by way of modifying volumes;
 - ✓ false or excessive bid pricing;
 - ✓ collusion of market participants on the PX...

- Measures
 - ✓ max numbers of coupled offers (price/quantity) that a certain undertaking may submit, or an obligation to trade on the PX with a max offer price could be imposed
 - ✓ Transparency and integrity (price setting principle / pre-trade or post-trade transparency requirements)
 - ✓ Supervision of PXs (by the PX market operator and by the NRA).

- ❑ Measures preventing abuse of market power by the PX itself indirectly affecting access and liquidity at the PX [EU case law: OPCOM, Dutch PX, EPEX Spot-Nord Pool ...]

Monitoring and enforcement powers of NRAs (and NCAs)


Electricity Directive recitals:

39. The internal market in electricity suffers from a **lack of liquidity and transparency** hindering the efficient allocation of resources, risk hedging and new entry. [...] **Trust in the market, its liquidity and the number of market participants needs to increase**, and, therefore, regulatory oversight of undertakings active in the supply of electricity needs to be increased.

37. NRAs should have the **power to issue binding decisions** in relation to electricity undertakings **and to impose effective, proportionate and dissuasive penalties** on electricity undertakings which fail to comply with their obligations NRAs should also be granted the power to decide,...., on appropriate **measures ensuring customer benefits through the promotion of effective competition** necessary for the proper functioning of the internal market in electricity. The establishment of **virtual power plants - electricity release programmes** whereby electricity undertakings are obliged to sell or to make available a certain volume of electricity **or to grant access to part of their generation capacity** to interested suppliers for a certain period of time - **is one of the possible measures** that can be used to promote effective competition and ensure the proper functioning of the market.

Article 37(4)

...(b) to carry out **investigations into the functioning of the electricity markets**, and to decide upon and **impose any necessary and proportionate measures** to promote effective competition and ensure the proper functioning of the market. Where appropriate, the regulatory authority shall also have the power **to cooperate with the national competition authority and the financial market regulators** or the **Energy Community Secretariat** in conducting an investigation relating to competition law.

A satellite-style view of the Earth at night, showing city lights. Overlaid on the globe is a complex network of glowing blue lines that represent energy transmission routes, connecting various points across the continents.

Thank you for your attention.