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Eurelectric vision on CEER Handbook for National Energy Regulators How to Assess Retail Market Functioning

Eurelectric consultation response

March 2025

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:
- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

WG Retail Market Design

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EURELECTRIC RESPONSE

1. **Are the eight key properties and their associated metrics relevant and sufficient for assessing the functioning of retail energy markets? (if not, please share your suggestions for other properties)**

- The Handbook should stress that if a particular metric suggests that a problem may exist, NRAs should research the issue to understand what may be causing those results.
- The handbook should also indicate that, if the purpose is to determine whether price intervention is justified, a low level of concentration is sufficient by itself to conclude that price intervention is not justified.
- The handbook should also indicate that, if the purpose is to determine whether price intervention is justified, evidence of low or non-existent entry barriers (in particular, evidence of actual entry) is sufficient by itself to conclude that price intervention is not justified.

2. **Are there any additional metrics that should be included?**

- A **new metric** should be included in **Key Property II** to show the evolution in the number of new retailers over, at least, the previous 10 years. The handbook should explain that evidence of actual entry by retailers may be sufficient to conclude that entry barriers are low or non-existent.
- A **new metric** should be included in **Key Property II** to indicate whether regulated prices are set above, equal, or below the cost of competitive retailers (including the allowance to cover for retailing costs -fixed and all operating costs incurred by regulated suppliers).
- **Metric 4**, which refers to the percentage of consumers with regulated energy prices, should be moved to **Key Property VIII**, relating to "Appropriate protection".

3. **Are the explanations and definitions of the metrics clear and comprehensive? If not, which sections need further clarification?**

- All market shares and concentration indicators should be defined in terms of volume of energy (not on the basis of the number of supply points) and by reference to the relevant product and geographic markets, in line with the approach laid down in the 2024 Commission Notice on the definition of the relevant market for the purposes of Union competition law (C/2024/1645). Relevant market should not consider sales to consumers whose prices are regulated below costs or if they are considered, they should be grouped under a separate entity.

- The handbook should not include any references which may prejudge the outcome of the analysis of the relevant product market. If it does include any references to “segments”, the handbook should also indicate that the conclusion of the analysis may also be that the relevant product market is the entire retail market, for example, if retailers commonly operate in two or more market segments.

- The handbook should not include any references which may prejudge the outcome of the analysis of the relevant geographic market. If it does include any references to “national” or “regional” market definitions, the handbook should also indicate that the outcome of the conclusion may also be that the relevant geographic market may be supranational; for example, when two MSs share a common wholesale electricity market, interconnections within that common market are rarely congested and retailers from one MS are automatically allowed to operate in the other MS.

- If the handbook includes references to the “concentration ratios”, it should provide guidance of how to interpret the results from the various indicators (CR3, CR4, CR8, etc). If CEER is unable to indicate how to assess the CR results, then, those results are useless to assess the functioning of the retail market and they should not be considered or included in the handbook.

- If the handbook requires that the “number of suppliers” be reported, it should provide guidance of how to assess whether the number of suppliers is consistent with a well-functioning retail market. If CEER is unable to indicate how to assess the results regarding the number of suppliers, then those results are useless to assess the functioning of the retail market, and they should not be considered or included in the handbook.

- The description of the different types of unbundling requirements in metric 3 should be redrafted. First, it should be made clear that the four unbundling concepts are alternatives to each other. Second, they should be put in an order of “increasing unbundling intensity”:
  1. Accounting unbundling
  2. Functional unbundling
  3. Legal Unbundling
  4. Full ownership unbundling

  It should be made clear that the more intense unbundling concepts include the less intense ones.

- In the description to metric 6, the Electricity Directive from 2019 is wrongly cited. It must say: “Electricity Directive 2019/944” (not 994)

4. **Are there any additional comments or suggestions for improving the Handbook?**

- **Metrics 7 and 8 (i.e., Key Property III)** should be deleted because the results are unreliable (they vary according to the assumptions made by NRAs about the retailers' procurement strategy), and they are therefore not useful to assess the functioning or the level of competition in the retail market. At most, they should only be used to assess the margins in fully-dynamic contracts which pass-through the spot market price, as there is no procurement strategy needed there. If those metrics are not deleted, it should be made clear that high margins or low correlations may be the result of inadequate assumptions regarding the procurement strategy, and the results should not be used to conclude that the retail market is not functioning properly.

- **On Metric 9** among the indicators there is one on "Indicate whether the following products are available for households/non-households, and their uptake (%):" (market based fixed price, fixed term contracts, market based dynamic price contracts as defined in directive 944, etc.) it is not clear why these products are specifically mentioned. For instance, a market-based open-ended contract is missing from this list.

5. **Are there any specific areas that require further attention or revision?**

- To include, under **Key Property V** or **Key Property VIII**, a metric or group of metrics which indicate whether there are regulation requirements in place to ensure the financial viability of retailers, such as hedging requirements or stress tests.

6. **Do the proposed metrics adequately capture the level of innovation and flexibility in the retail energy markets? Are there any additional aspects of innovation that should be measured?**

- The handbook should make it clear under **Key Property IV** that a low level of innovation and flexibility in the retail energy markets does not necessarily mean that the retail market is not functioning properly.

7. **How well do the metrics address the availability and uptake of demand response and self-generation options? Are there any improvements that should be suggested?**

- The handbook should make it clear that a lack of availability and uptake of demand response and self-generation options in the retail energy markets does not necessarily mean that the retail market is not functioning properly.

- The handbook should instruct NRAs to include an assessment of whether the development of self-generation may be due to the fact that consumers who install self-generation can avoid costs which are not really avoidable (such as grid costs and other charges such as subsidies to renewables), effectively forcing other consumers to bear a higher share of those costs.

- **On Metric 10** under the question "What kind of value-added services or products that contribute to demand flexibility are available for customers? (Examples of automatically controlled or supplied with demand response switch)", it is not clear why there is this list/question. By default, these are not devices offered by electricity suppliers. It cannot be expected that the sale of these devices would somehow be linked to the electricity supplier. Therefore, we question if this is the correct indicator.

8. **How effective do you think the proposed metrics are in monitoring consumer protection, especially for vulnerable and energy-poor customers? Are there any additional measures that should be recommended?**

- Add under **Key Property VIII**, which relates to "Appropriate protection", an additional metric which indicates whether vulnerable consumers are free to choose their retailer, or whether their supply options are constrained if they want to receive assistance.

- Move **metric 4** (which refers to the percentage of consumers with regulated energy prices) **to Key Property VIII** (which relates to "Appropriate protection"). In their answer to this metric, NRAs should indicate whether (a) the regulated price is set at a level which is not below the price that would be set in the free market by a competitive retailer and (b) public intervention in price setting is temporary and includes a well-defined roadmap for their gradual removal.

- **On Metric 18** description is unclear the meaning of "notification of the activation". This can be interpreted to include the termination period, which is no longer part of the technical process. The technical process should be the time from when the new supplier notifies about the new contract to when they receive information whether it is okay or not. In some Member States, for example Finland, this happens in real-time and from this point, the termination period begins, which is 2 weeks. So, the supplier switch actually happens two weeks after the new supplier receives the information that the notification of the supplier switch has been accepted.

- **On Metric 20**, the question "Can smart meters in your country account for the energy generated by household prosumers?" is not totally correct. "Generated" should be "fed into the grid". Smart meters do not measure total production, but only what is fed into the grid. In some countries (e.g. Finland), the prosumer first uses part of the production themselves and only the rest is fed into the grid.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability

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