Council of European Energy Regulators

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CEER Benchmarking report on removing barriers to entry for energy suppliers in EU retail energy markets

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INFORMATION PAGE

Abstract

This benchmarking report aims, based on previous work, to identify barriers to entry for energy suppliers into retail gas and electricity markets across the EU as well as to point out examples of actions National Regulatory Authorities (NRAs) have taken, are taking or envisage taking to remove them. It describes a range of different barriers to entry, and sets out the results of an extensive consultation process on each of these barriers with 22 NRAs:

1. Barriers to market access
   - Lack of access to customer and market information for suppliers
   - Lack of price transparency
   - Wholesale market functioning
2. Regulatory barriers
   - Existence of regulated end-user prices
   - Lack of consideration for innovation in regulation
   - Inefficient unbundling between distribution and supply companies
   - Legislation changes
3. Barriers to entry arising from differences in processes and standards
   - Billing format and IT systems
   - Business processes
   - Data management
   - Switching processes
4. Barriers to entry specific to cross-border entrants
   - Adapting to local languages and culture
   - Non-homogeneity of system / legislation

This report will provide a basis for the forthcoming CEER Guidelines of Good Practice on removing barriers to entry for energy suppliers in EU retail energy markets, planned in 2016.

Target Audience

European Commission, energy suppliers, traders, gas/electricity customers, gas/electricity industry, consumer representative groups, network operators, Member States, academics and other interested parties.

Keywords

Retail gas market; retail electricity market

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Executive summary

Background

In order to achieve a well-functioning retail energy market, new suppliers must be able to enter the market and compete on a level playing field with existing suppliers. The threat of a new entry can create competitive pressures, forcing existing suppliers to adapt their strategies. New entrants can also bring in new and innovative ways of operating. These are important factors, which contribute to the delivery of CEER-BEUC 2020 Vision for Europe's energy customers.

CEER's Position paper on well-functioning retail energy markets has identified barriers to entry as a key issue for retail market functioning. Building on previous work, this benchmarking report aims to identify a range of barriers to entry for energy suppliers into retail gas and electricity markets across the EU, and points to examples of actions National Regulatory Authorities (NRAs) have taken, are taking or envisage taking to remove them. This paper sets out the results of an extensive consultation process on each of these barriers with 22 NRAs based on a CEER questionnaire. Therefore, it should be noted that the statements made in this document refer to the 22 NRAs that provided answers to the questionnaire.

Our approach

As a basis for the questionnaire, CEER selected a set of high level barriers to entry for energy suppliers based on previous publications by CEER, the Agency for the Cooperation of Energy Regulators (ACER) and other organisations. NRAs were also asked to highlight additional barriers they consider to be important or relevant. Separate responses were requested for the electricity and gas markets. Comment boxes were provided, allowing the NRAs to provide further explanation, and give a more comprehensive account of the different strategies and approaches used for removing entry barriers.

Barriers to entry have been grouped into four different categories, as set out in the following table. Some of them have been assessed through the questionnaire. Others, between brackets, are mentioned for further work, but have not been assessed in the survey.

Type of barrier	Description	Barriers included
1. Barriers to market access	*Barriers to entry arising as a consequence of the way the energy supply chain works, and of the characteristics of the gas and electricity products.*	• Lack of access to customer and market information from a suppliers' perspective • [Lack of Price transparency] • [Wholesale market functioning]
2. Regulatory barriers	*Barriers associated with the regulatory framework.*	• Impact of regulated end-user prices • Lack of Consideration for innovation in regulation • Inefficient unbundling between distribution and supply companies • [Legislation changes]
3. Barriers to entry arising from differences in processes and standards	*Barriers arising as a result of differences in processes and standards, which makes it difficult for a supplier already present in one area to enter another area.*	• Billing format and IT systems • Business processes • Data management • Switching processes
4. Barriers to entry specific to cross-border entrants	*Barriers relating to differences across Member States that specifically apply to cross-border entrants.*	• Adapting to national languages and cultures • Non-homogeneity of system / legislation

Regulators were asked to approach each barrier from two different angles:

a) from the perspective of a national supplier entering a domestic market, and
b) from the perspective of a cross-border entrant trying to compete in a foreign market.

Some barriers may be relevant in both scenarios, others only in one.

Findings

A majority of the NRAs regard the challenges new entrants face in accessing customer and market information as a significant barrier to entry. As a solution, some Member States have taken action by setting up a data hub. Most respondents emphasised the importance of taking data privacy concerns into account when considering measures in this area.

Regulated end-user prices have been removed in the majority of the responding Member States. Where regulated prices remain, they are generally in the process of being phased out at least for non-household customers. Yet, as outlined in the latest ACER-CEER Market Monitoring Report, regulated end-user prices for households remain widespread and the process of moving away from regulated retail prices is very slow. After seven years of full market opening, regulated electricity and gas household prices still exist in 14 countries and 13 countries respectively, while regulated electricity and gas prices for industrial consumers exist in 11 countries and 10 countries, respectively. In their answers to the questionnaire, NRAs reported that the phasing out of regulated prices relies on aligning prices with supply costs and closely monitoring the development of competition. Some NRAs emphasised the need to retain appropriate protections for vulnerable customers when phasing out regulated end-user prices.

NRAs have the responsibility to ensure that regulation keeps pace with innovation in the rapidly evolving energy markets. Around half of responding NRAs raised the potential lack of considering innovation in regulation as a barrier for new entrants. Many highlighted the importance of smart metering as a key driver for future innovation in the energy market.

Although NRAs state that the 3rd Package has been enforced properly in their Member States, the majority considers that some entry barriers remain due to inefficient unbundling. One example relates to the advantage of the incumbent supplier to share an identical or similar branding with the DSO.

Licensing or contracting processes are regarded as a barrier to entry by about half of responding NRAs. While these processes are essential to ensure a safe business environment, a number of NRAs reported efforts they had made to reduce the impact of obligations on suppliers.

Most NRAs noted that the burden created by data management processes could act as a significant barrier to entry. While further progress might be driven by EU legislation, some NRAs highlighted the potential positive impact of national and regional initiatives to standardise data format and processes, including investments in data hub infrastructure.

Complicated switching processes were also flagged as creating a potential barrier to entry. A number of NRAs declared that they are currently working on improving timeframes, up to next-day switching. However, this relies on improvements made on metering and on data exchange.

Heterogeneity of legislation across Member States is regarded as a significant barrier by most responding NRAs, although this is not necessarily an energy-specific issue (examples of tax systems and data protection were cited). Due to the differences in legislation across NRAs, small markets may be less attractive for new entrants. Regional cooperation was quoted by most NRAs as a solution to harmonise legislation.

Adapting to local language and culture, billing formats and IT systems is not seen as significant barrier by the majority of NRAs.

Next steps

This present report will provide a basis for forthcoming CEER Guidelines of Good Practices on removing barriers to entry for energy suppliers in EU retail energy markets, planned in 2016.

Related Documents

CEER/ERGEG documents

- CEER Status Review on the Implementation of Distribution System Operators' Unbundling Provisions of the 3rd Energy Package, Ref: C15-LTF-43-03, 1 April 2016
- CEER Position paper on well-functioning retail energy markets, Ref:C15-SC-36-03, 16 October 2015
- ERGEG Position paper on end-user price regulation, Ref: E07-CPR-10-03, 18 July 2007
- ERGEG Status Review on end-user price regulation, Ref: E07-CPR-08-04, 14 June 2007

ACER documents

- ACER/CEER Annual Report on the Results of Monitoring the Internal Electricity and Natural Gas Markets in 2014, November 2015
- Study on "Barriers to cross-border entry into retail energy markets", 6 August 2015
- ACER/CEER Annual Report on the Results of Monitoring the Internal Electricity and Natural Gas Markets in 2013, October 2014
- Energy Regulation: a Bridge to 2025, Conclusions Paper, 19 September 2014

External documents

- NordREG 2014 Market Entrant Processes, Hurdles and Suggestions in the Nordic Energy Market – the View of the market, Dr Philip Lewis, November 2014

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1 Introduction

In order to achieve a well-functioning retail energy market, new suppliers[1] must be able to enter into and compete in the market. New entrants create competitive pressures, forcing existing suppliers to adapt their strategies. They can also bring in new and innovative ways of operating (e.g. by providing a new service or a price structure that existing suppliers do not yet offer). The competition and innovation that new entrants bring are important factors in helping the energy markets to deliver CEER's 2020 Vision for Europe's energy customers.

To enter and compete in a market, energy suppliers face different kinds of challenges and obstacles, so-called 'barriers to entry'. Barriers that impede new entrants from entering into markets can limit the development of competitive and innovative markets. The need to avoid certain potential barriers to market entry is already identified in EU legislation, for example via the importance of unbundled DSOs to act as neutral market facilitators, or the removal of below-cost regulated end-user prices.

CEER's Position paper on well-functioning retail energy markets identifies barriers to entry as a key issue. In this report, we consider the challenges and obstacles faced by new entrants in greater detail. The report describes a range of different barriers to entry, and sets out the results of an extensive consultation process on each of these barriers with 22 NRAs. It should therefore be noted that the statements and conclusions made in this report are based on the answers received by the 22 NRAs in the consultation process.

1.1 Purpose of the report

Following on previous work, this benchmarking report aims to identify barriers to entry for energy suppliers into retail gas and electricity markets across EU as well as to point out examples of actions NRAs have taken, are taking or envisage taking to remove them. The report will, where relevant, include comments on the impact of regulated end-user prices. As described above, the report considers barriers that will apply to all potential suppliers who consider entering a market, as well as those that are specific to cross-border entrants.

Identifying and addressing barriers to entry is important, since they will have a significant impact on the outcome for energy consumers. In particular, by preventing competition from working effectively, they can lead to higher prices, limited choice and less innovation.

This benchmarking report seeks to identify barriers to entry related to European retail energy markets, and approaches taken by NRAs to lower those barriers. It will provide a basis for the forthcoming CEER Guidelines of Good Practice on removing barriers to entry for energy suppliers in EU retail energy markets, planned in 2016.

1.2 The CEER questionnaire

A CEER questionnaire sent to each NRA is the basis of this report. Respondents were asked about the extent to which selected barriers are relevant in their national market, what strategies they have pursued and are pursuing to remove them, or – alternatively – why NRAs do not consider a specific issue to be a barrier.

Respondents were asked to approach each barrier from two different angles:

[1] In this documents, the term „supplier" only refers to energy (electricity and gas) suppliers, and not to aggregators or third party service providers.

a) from the perspective of a national supplier entering a domestic market, and
b) from the perspective of a cross-border entrant trying to compete in a foreign market.

Some barriers may be relevant in both scenarios, others only in one.

As a basis of the questionnaire, CEER has selected a set of high level barriers to entry for energy suppliers based on previous publications by CEER, the Agency and other organisations. NRAs were also asked to highlight any other barriers they considered important or relevant. Separate responses were requested for the electricity and gas markets.

The questionnaire introduced each barrier with a short description followed by a standardised set of questions:

- *whether the barrier identified by CEER is relevant to their national markets;*
- *which steps did the NRA take in order to remove the barrier; and*
- *what are the reasons for keeping a certain barrier.*

Comment boxes were provided, allowing NRAs to provide further explanation, and in this way give a more comprehensive account of the different strategies and approaches used to remove entry barriers. These boxes also allowed NRAs to provide a fuller description of why a particular barrier was not considered important, for example whether this was because it does not exist in the market, or because it is not considered to adversely impact upon competition. NRAs were also invited to present their experiences, case studies and best practice examples.

NRAs were informed that the gathered information would be used to provide an overview of actions NRAs are taking or plan to take to remove barriers for suppliers to enter their national markets. The overall goal was to create a concise map of strategies that will help develop a well-functioning internal energy market, foster competition and, most importantly, offer customers better deals and services.

2 Barriers to market access

In this section we discuss barriers arising as a consequence of the way the energy supply chain works, and of the characteristics of the gas and electricity products. The three types of barriers that we discuss are:

a. Difficulties that suppliers may face in accessing the information a supplier requires to serve a customer;
b. Challenges new entrants face in attracting customers; and
c. Impediments to accessing wholesale markets.

2.1 Lack of access to customer and market information

In a well-functioning market, it is important the information required to operate in the market is available to newcomers (subject to applicable legislation on data protection). For example, this may include information on individual consumption or more specific meter details. This information will be required by suppliers to carry out their role in the market, such as initiating a switch, or billing a customer.

The question asked to the NRAs was: *“Do you consider that access to customer and market information is a significant barrier to entry for energy suppliers in your MS and have you taken initiatives to remove it?”*

2.1.1 Results from the questionnaire

The majority of responding NRAs considers that the lack of access to customer and market information presents a significant barrier.

The most widely adopted solution to remove this barrier is to set up a data hub or a data warehouse under the supervision of the TSO or the Market system operator. Most NRAs emphasise the sensitivity of data in relation to personal data privacy and mention legal constraints to data exchange. Thus, usually, data access requires the customer's formal agreement.

For those who consider this issue as a low barrier and do not plan to remove it, their response refers to personal privacy protection rules. Besides, answers to the questionnaire reveal a perception that the barrier is inherent to any market and that no specific regulatory action is required. These NRAs also point out the primary responsibility of the customer to provide data to the supplier.

2.1.2 Case study

Decision of the French Competition Authority regarding data collected by an incumbent supplier under a monopolistic mission

In 2014, the French Competition Authority has been approached by an alternative supplier regarding abuse of dominant position in pricing practices by the main incumbent supplier on the gas retail market. One of the main alleged practices was the improper use of the unrivalled advantage consisting of the customer database set up by the incumbent supplier under its monopolistic mission of supplying gas customers at regulated tariffs in order to target and convert them at gas market price offers or to develop its electricity portfolio. This data consists of the name and location of the customer, which is important information in gas as not all households are connected to the network, as well as some crucial characteristics of their consumption for marketing. In order to compete on a level playing field on the market, the alternative supplier requested to be granted access to this database.

In September 2014, following the arguments raised by the complainant, the Competition Authority decided to enforce the opening of the customer database to all alternative suppliers and to forbid any marketing by the incumbent on gas market price offer until data access was fully operational for competitors. This decision is applicable to both non-residential customers and households, provided the non-opposition of the customer to the transmission of data to third parties has first been verified with respect to the applicable legislation aimed at protecting personal data.

2.2 Lack of price transparency

Customers who actively take part in the energy markets through switching are a prerequisite for new entrants in the market. Price differentiation is a strong driver for switching. It is important that customers can compare prices of different offers as this enhances customers' opportunities to gain from activity in the market. Customers reacting to the prices of different offers also give new entrants the opportunity to compete on price. A price comparison tool is one way to increase the price transparency in the market.

This barrier has not been assessed in the questionnaire, but it has been brought to attention as a barrier to be considered in the future work.

2.3 Wholesale market functioning

Wholesale markets are out of the scope of this study, which is primarily focused on retail markets. Nevertheless, access to a well-functioning wholesale market is a prerequisite for competitive retail energy markets. Suppliers' ability to innovate, compete and enter into retail markets relies on the availability of market mechanisms to supply energy in wholesale markets.

Lack of access to wholesale markets is perceived as a major potential barrier to entry for new entrants. This may include the conditions under which a new entrant is able to access the wholesale market, for example if there is a need for a license or for financial guarantees. CEER Position paper on well-functioning retail markets also mentions this as a key barrier to entry.

This barrier has not been assessed in the questionnaire, but it has been brought to attention as a barrier to be considered in the future work.

3 Regulatory barriers to entry

In this section we discuss barriers arising as a consequence of the regulation of the gas and electricity markets. We look in turn at the impact of regulated end-user prices, the relationship between regulation and innovation, and the impact of legislative changes on new entrants.

3.1 Impact of regulated end-user prices

By definition, a regulated end-user price is a price subject to regulation or control by a public authority. The regulation can take different forms, such as setting or approval of prices, price caps or various elements of these.

In a number of Member States end-user regulated prices have been maintained during the market opening process in the intention of protecting households or even non-household customers from significant increases in energy prices, especially in a context of limited competition. In some cases, this regulation has led to below cost prices.

A situation where regulated prices are set below cost, or with a too limited margin to cover the risk of activity, discourages investments and the emergence of newcomers. As a consequence, in its recent Energy Union communication, the European Commission stated that "[it] will seek the phasing-out of below cost regulated prices through the competition and economic governance frameworks. It will also encourage MSs to establish a roadmap for the phasing-out of all regulated prices".

The question asked to the NRAs was: *"Do you consider regulated end-user prices as a significant barrier to entry for energy suppliers in your MS and have you taken initiatives to remove it?"*

3.1.1 Results from the questionnaire

In the majority of the 22 responding countries, energy prices are no longer regulated. Where regulated prices remain, NRAs tend to consider them as a significant barrier to entry for alternative suppliers. All Member States, where NRAs consider regulated prices as a significant barrier, are planning to remove them, at least for non-household customers.

In general, NRAs emphasise the need to *"facilitate the phasing out of regulated end user prices, as soon as practicable, whilst ensuring that customers are properly protected where competition is not yet effective"*, as expressed in the conclusions of the ACER / CEER Bridge to 2025.

As part of a roadmap for phasing-out regulated prices, most of the concerned NRAs state that regulated prices should first be aligned with supply costs. They also point out the role of the NRA to define the appropriate methodology and to control end-user prices evolution.

Some NRAs suggest that the final decision for end-user prices withdrawal should depend on the level of competition in the market, which could be assessed by the NRA, like the number of market participants and their market share, the transparency of structure and rules of market functioning, a non-discriminatory treatment on the market.

Eventually, some NRAs note the need to protect vulnerable and low income household customers.

3.1.2 Case studies

Roadmap for the phasing-out of non-household regulated prices in France

In order to comply with the recommendations made by the European Commission regarding the existence of regulated prices, the French Government has committed to phase-out regulated prices for non-residential electricity and gas consumers. Therefore, Article L.337-9 of the Energy Code, introduced by Article 14 of Law No. 2010-1488 of 7 December 2010 on the new organization of the electricity market (NOME law) states that electricity consumers located in mainland continental France whose contracted power is greater than 36 kVA will no longer benefit from electricity regulated prices as of 1 January 2016.

Similarly, the provisions of Article L. 445-4 of the Code of energy, introduced by the law N°2014-344 of 17 March 2014 provide a roadmap for a progressive removal of regulated prices for natural gas in three steps:

- three months after the publication of the law, as of 19 June 2014, for consumers connected to the transmission network;
- on 31 December 2014 at the latest for non-domestic consumers whose annual consumption exceeds 200 000 kWh of gas per year;
- on 31 December 2015 at the latest for non-domestic consumers whose annual consumption exceeds 30 000 kWh of gas per year and for residential main use buildings consuming more than 150 000 kWh per year.

Article 25 of Law of 17 March 2014 states that the incumbent suppliers of natural gas and electricity have to inform their clients benefiting from regulated prices that they will no longer be eligible for these tariffs once their current contract is terminated. This information is made available by incumbent suppliers through a mail header of the ministries of energy and economy.

All consumers affected by the end of the regulated prices, must subscribe a new contract at market price with the supplier of their choice before the due date of their contracts at regulated prices of electricity and gas. Nevertheless, to avoid disconnections in winter, the paragraph III of Article 25 of Law of 17 March 2014 states that consumers who have not subscribed to a market price offer before due date, will be automatically switched to a default offer, the conditions of which are submitted by their supplier three months before that date. This default offer, the so-called "transitory offer", will have a limited duration of maximum six months.

Changes to the household regulated prices in the Spanish Electricity Sector

Act 24/2013 of the Electricity Sector and the Royal Decree 216/2014 introduced a new methodology to establish the energy cost of the regulated electricity prices for households (known by the PVPC acronym in Spanish).

In Spain, regulated electricity prices apply only for electricity consumers below 10 kW of installed power. The "reference suppliers" have the obligation to apply these prices to small consumers that wish to be supplied at PVPC. This tariff is approved by the Government.

Before 2014, the regulated tariff raised many complaints from electricity companies, claiming that the price was set below cost or may have too limited margin to cover the risk of activity.

The mentioned Royal Decree established a new methodology for calculating the PVPC, including the energy cost, the applicable access tariffs and a commercial margin.

The main difference is that the energy cost will be calculated on an ex-post basis, using the average price resulting in the spot electricity market during the period covered by the bill. In the case of consumers with an operative smart meter installed, since 1 October 2015, a real time energy tariff, following the spot price, is applied. The real time price is published by the electricity TSO (https://www.esios.ree.es/es/pvpc).

By having a mark-up with the energy cost from the electricity spot market, this change prevents the energy component of the regulated tariff to be set below cost.

However, there is still a discussion about the new value of the commercial margin, set in 4 €/kW/year, which is seen as too low by electricity companies. The Government has to entrust the Spanish regulatory authority (CNMC) to propose a methodology to calculate this margin for the next years.

3.2 Lack of consideration for market innovation in regulation

Current market designs are in many cases based upon the practices established during the period of national monopolies by today's incumbent suppliers. The ability of new entrants to be innovative depends not only on the opportunity to compete on prices, but also to diversify. The lack of consideration for innovation in national regulations (e.g. regarding the availability and functionality of smart metering or the possibility of flexible contracting and billing options) may be a barrier for new market entries.

Opportunities for innovation for new entrants are important for the attractiveness of market entry, which in turn increases the level of competition in the retail market.

Regulations should enable the new supplier to provide a variety of contracting and billing options. Regulations must also be fit for accommodating the future development of energy markets, by enabling smart metering and the customer to own and control real time and historical metering data. This is important for the ability of new entrants to innovate by offering feedback or flexibility services that facilitate demand response. The new entrants of the future may not only be electricity and gas suppliers, but also act as aggregators or energy service companies (ESCOs).

A further shift in regulation relates to opportunities for consumers to take part in the European energy transition. Regulations must consider that consumers will increasingly generate and store renewable energy at home, while demand for Guarantees of Origin (GO) is also growing. New entrants should be able to take advantage of new market opportunities in this area.

The question asked to the NRAs was: *"Do you consider the lack of consideration of innovation in regulation as a significant barrier to entry for energy suppliers in your MS and have you taken initiatives to remove it?"*

3.2.1 Results from the questionnaire

About half of responding NRAs view the disregard of innovation in regulation as a barrier to entry. Smart meters implemented with appropriate regulation are considered as a significant enabler for further innovation in the electricity market.

The lack of opportunities for innovation, such as smart metering, demand side response offers, dynamic pricing or self-consumption, in the regulatory framework is also in general a key issue for CEER members who view innovation as a barrier to entry.

Some NRAs questioned the approach of considering innovation in the regulation as a barrier. Eventually, they put the emphasis on the constant need for a cost-benefit assessment.

3.2.2 Case study

Smart meters as enablers for innovation in Sweden

This case presents how smart meters for customers with a fuse below 63 ampere have improved competition and the possibility for customers to be active in the market.

Billing on actual consumption facilitates customer activities

Monthly meter reading has been mandatory for all Swedish customers since 2009. Almost all (99%) of the old meters were replaced by remotely read meters. Even though there were no further requirements on the meters at this stage, 90% of the meters were capable of hourly metering.

Since the introduction of the smart meters, customers are billed on their actual monthly consumption. This has made it easier for the customers to understand their electricity consumption and costs. Billing on actual consumption has also made it easier for the customers to switch supplier as the complicated last set-off bill has been eliminated. All market actors such as the Swedish NRA, DSOs and the suppliers on the market have experienced a huge decline in customer complaints regarding the bill after the reform was implemented.

Hourly metering enables demand response

Since 2012, Swedish DSOs are obliged to deliver hourly data at no extra cost for customers subscribing to an hourly-based supplier contract. Hourly metering is still at an early stage, but this together with a well-functioning wholesale market and a clear link between retail and wholesale market prices enables demand response.

Many Swedish suppliers are offering hourly-based contracts. The opportunity to reflect wholesale prices in products offered at the end-user market allows suppliers to be more innovative to meet customers' wishes and needs. Hourly metering is important for smart homes and gives customers the opportunity to participate in the electricity market in new ways. Some Swedish customers are already today lowering their costs by optimising for example their heating system on input data from both the wholesale market and weather forecasts, either by themselves or with the aid of energy service companies.

Further possibilities with the next generation of smart meters

In 2015, the Swedish NRA proposed requirements on functionalities of the next generation of smart meters as a result of a commission organised by the government. The proposed requirements enable further development of products and services for energy efficiency, demand response and micro-production.

The requirements include an open standardised interface delivering real time information on power, aggregated consumption, voltage and, if relevant, production.

Reading of meter data, upgrading software as well as connections and disconnections will be possible through remote-control. The next generation of smart meters will also be able to collect data on outages and detect defaults.

Furthermore, all metering systems should be capable of registering consumption values every 60 minutes. It should be possible to increase the frequency to every 15 minutes by remotely changing the settings in the meter.

3.3 Inefficient unbundling between distribution and supply companies

From a customer perspective, effective unbundling decreases the possibility for incumbent suppliers to take advantage of their potentially biased relationship with DSOs. It helps to ensure that customers recognise the supplier / DSO relationship and helps to create awareness of their respective responsibilities and duties.[2]

Moreover, a newcomer, who cannot build on an established brand name and who has to grow a customer base from scratch, has to face barriers that an incumbent supplier might never have had to overcome. Creating and maintaining a level playing field for all market participants ensures that every stakeholder starts off and operates under similar preconditions.

Thus, for instance, similarities in name and logo or full brand bundling of incumbent supplier and DSO decrease customer awareness of their options in the liberalised market. If the incumbent supplier and DSO (still) share a brand, they could possibly build on familiarity and trust that dates back to times even prior to market liberalisation.

The question asked to the NRAs was: *"Do you consider inefficient unbundling as a significant barrier to entry for energy suppliers in your MS and have you taken initiatives to remove it?"*

3.3.1 Results from the questionnaire

For a majority of responding NRAs, even though their country complies with unbundling rules stipulated in the 3rd Package, brand bundling and inefficient unbundling may still pose a barrier for new market entrants. This applies for both the electricity and gas sector. Most NRAs comment that while legal unbundling is in place, it is more a matter of brand bundling and corporate identity similarities that make it difficult for customers to differentiate companies thus giving certain companies a competitive advantage.

For the others who do not recognise inefficient unbundling as a barrier in their respective countries state that the unbundling rules set in European regulations have been successfully implemented in their national legislation. Those members are not aware of any problems for market entrants arising from insufficient compliance with unbundling rules. However, they comment that they closely monitor the market to guarantee that unbundling rules are complied with.

3.4 Legislation changes

The establishment of a European internal energy market is still an ongoing process. Regulation is evolving rapidly, driven by the successive energy and environmental European legislative packages and their transposition into the national frameworks. These evolutions may significantly impact the suppliers' business cases, leading them to adopt a more prudent approach to the market.

[2] Unbundling is addressed in more detail in the CEER Status Review on the Implementation of Distribution System Operators' Unbundling Provisions of the 3rd Energy Package, C15-LTF-43-03.

If there is no point to expect a stable legislative framework - neither at national nor at European levels - considering the efforts still required to achieve a fully integrated internal energy market, some practices could be put in place (while others should be avoided) in order to better evaluate the impact of the proposed legislation on the economics of the system or to limit the risk on the economic actors by offering them appropriate opportunities to adapt or exit the market.

This barrier has to be distinguished from the one referring to non-homogeneity of systems and legislation, as it corresponds to a temporal perspective (changes over time), while the second corresponds to geographical difference at the same moment of time.

This barrier has not been assessed in the questionnaire, but it has been brought to attention as a barrier to be considered in the future work.

4 Barriers to entry arising from differences in processes and standards

In this section we describe the impact differences in processes and standards across various areas can have on how easily new entrants are able to enter a given market. We look at differences in bill formats, IT systems, businesses processes, approaches to data management and switching processes.

4.1 Billing formats and IT systems

A bill should contain consumer friendly information and provide information about consumption and pricing in a simple and transparent manner.

Different bill formats exist across Member States. The Internal Market in Electricity Directive and the Energy Efficiency Directive provide some common European rules for billing. In addition, many Member States may have supplementary requirements about the content and format of bills. Customers in some Member States may also have specific expectations as to how a bill should look like, even though there is no additional regulation covering these expectations.

The bill format and the content of the bill rely on different IT, metering and settlement systems. For example, the frequency of required metering and settlement may vary between Member States (once a year, twice a year, monthly, etc.). The ways in which meter readings are done may also vary (self-reading, smart metering, etc.).

The question asked to the NRAs was: *“Do you consider the different billing formats and IT systems as a significant barrier to entry for energy suppliers in your MS and have you taken initiatives to remove it?”*

4.1.1 Results from questionnaire

NRAs recognise different bill formats and IT systems in electricity and gas as barriers that can be placed in two groups.

First, the lack of the possibility for all suppliers to offer combined billing in some markets poses a barrier to entry. Combined billing may be a competitive advantage for suppliers with such an option, which are typically incumbents, as customers may prefer to obtain the network tariffs and energy component on one bill. NRAs highlight that implementing a supplier-centric model provides a solution to this problem.

Second, NRAs underlined that differing IT systems also act as a barrier. The streamlining of IT formats and the introduction of data hubs is mentioned as a possible solution to this problem.

NRAs point out that they have put effort into providing guidelines and minimum standards to promote transparent and comprehensible bills. They also state that the implementation of smart metering will increase transparency for consumers.

Some respondents also state that even if different bill formats and IT systems can be a barrier, the design and format of the bill is determined by the supplier and as such may offer a means to set oneself apart from the competitors.

NRAs who answer that the issues do not present a barrier altogether refer to existing legislation on an EU and national level, which covers basic information and minimum standards for billing.

4.2 Business processes (licences, registration, contracts)

Licensing and registration, or arranging contracts with other stakeholders (like TSOs, DSOs or balancing responsible parties are some of the first steps that a newcomer needs to go through to enter and operate in a national retail energy market.

In some Member States, energy suppliers need to be granted a license or proceed with a notification or a registration before starting supplying final consumers of gas or electricity. These licenses (or registrations) may require some customer service obligations from the suppliers, like requirements concerning service quality, having a phone / email to communicate with the consumers.

In most responding NRA countries, suppliers need to register and make contracts with certain stakeholders (mainly TSOs and DSOs) to procure the access to the energy grid: transport capacity, balancing. This procedure can be very different from a country to another. The Access to Energy wholesale markets and balancing may also require a license or some kind of prior agreement/registration with the market operator.

In some markets, business processes to enter and operate in the retail market can be extremely detailed and burdensome. The lack of a functioning national wholesale market may also hinder the entrance of retail companies not vertically integrated.

The question asked to the NRAs was: *“Do you consider that the licensing, registration, contracting process is a significant barrier to entry for energy suppliers in your MS and have you taken initiatives to remove it?”*

4.2.1 Results from questionnaire

About half of responding NRAs consider business processes (licences, registration, contracts) may constitute a barrier to entry both electricity and gas retail markets at national level. Nevertheless, around two thirds of them state that they have already removed this barrier or have already developed a plan to remove it.

Some countries use licensing system to “*ensure a minimum level of organisational, technical and financial quality for suppliers” or “to ensure a safe business environment*”, while in other countries, there is no licensing procedure applied.

Some countries have also introduced arrangements to reduce the impacts of technical and costly rules on some suppliers operating in the electricity retail market, in light of concerns expressed by small market participants that the existing arrangements were too complex. The model known as 'license light' enables a supplier to contract with another supplier to fulfil certain code obligations on their behalf.

Finally, some NRAs consider that business process is not a barrier to entry in their country.

NRAs who consider that business processes are not a barrier to entry in their corresponding gas or electricity markets can be grouped in two ranges of arguments. On the one hand, some of them perceive that the existence of business processes is necessary in order to be able to guarantee a safe and reliable business environment for all market participants, including electricity and gas customers.

On the other hand, some NRAs consider that their markets *"are easily accessible by new entrants due to the fact that simple registration and licensing processes are in place, so that administrative burden is relatively low".*

Plans to remove the barrier generally refer to the implementation of simplified procedures and/or standardised processes, frameworks for contracts and exchange of information.

4.2.2 Case study

Removal of licensing barriers in Spain

Until 2009, gas trading activity in Spain was subject to an authorisation process. The process to acquire a gas license and requirements were regulated by Law 34/1998 and Royal Decree 1434/2002. However, the process was long (minimum 4 months), burdensome, and some of the requirements were inadequate:

- The process included the assessment of the technical and economic capacity of the applicant by the Ministry. The applicant had to submit an explanatory report (in Spanish) detailing and justifying the staff for marketing activity and customer's services (gas emergencies, complains, inspection services, metering and billing of customers, etc.).
- Some detailed requirements could appear cumbersome for some categories of market entrants, like the obligation of having a permanent establishment or local branch office in Spain.
- The rules included distinctions between incumbents and newcomers, i.e. companies that have developed the activity of distribution or trading of gas or electricity at least in the last three years (or have one experience partner participating in the capital with a percentage equal or greater than 25%) did not need to justify the technical capacity.

In December 2009 a new law[3] was approved making several important amendments to this model, and the detailed regulation for gas trading licensing was changed in February 2010[4], replacing the authorisation process by a communication system.

The new licensing procedure is inspired by the recommendations of the European Directive 2006/123/EC on services in the internal market, although the Directive includes gas and electricity supplies on the list of exempted sectors. The legal requirement that

[3] Law 25/2009, amending various laws to adapt to the Directive 2006/123/EC

[4] Royal Decree 197/2010.

asked to have a permanent office in Spain was removed in December 2009 by Law 25/2009. Assessment of technical and economic capacity was also removed.

Thus, under the new legal framework, to become a gas trader before undertaking any physical energy trading or TPA access, a company merely has to send a communication form[5] of only two pages long, to the relevant Ministry Department. This communication should include a signed statement of accomplishment of Spanish legal trading requirements, and the gas sales prevision for the first year of activity. Then, the interested party can immediately start the trading, without awaiting any acknowledgement of receipt[6]. The relevant Ministry's Department or the Spanish NRA may request at any time the accreditation of compliance with any of the requirements necessary to operate on the Spanish gas market.

The Spanish legal system does not issue separate licenses for physical wholesale trading and sales to final customers of natural gas. However, under the new system, wholesale traders (without end-users supply activity) can inform about this circumstance, via the communication form, in order to be exempted of the legal requirements related to consumer protection (e.g. having a consumer's attention phone).

There is no fee for obtaining the licensing. The regulation includes the possibility to establish an economic grant, nevertheless this obligation is still under development, and as such is not actually in place. The licensing has no finishing data. If a trading company wants to quit the Spanish market, it only needs to send a formal communication with the end-date of its trading activities.

The list of registered gas traders is available on the of National Regulatory Authority website[7]. From 2009 until 2014, the number of registered gas traders in Spain has increased from 40 to 120, including 26 traders that have registered only for gas wholesale trading. The process is now simpler and faster.

4.3 Data management

Data management comprises the processes by which data is sourced, validated, stored, protected and processed and by which it can be accessed by suppliers or customers.

The necessity to adapt to different data management models for each market can have an impact on the resources of the potential market newcomers. Non-discriminatory and smooth accessibility of data is naturally most important during the pre-contractual phase as well as for running contractual situations. The fact that not all countries have rolled out smart meters yet also creates significant differences in the availability and accessibility of data.

A standardised approach to the provision and exchange of data creates a level playing field among stakeholders and helps to encourage new challenging market actors to enter a new market.

The question asked to the NRAs was: *"Do you consider that data management is a significant barrier to entry for energy suppliers in your MS and have you taken initiatives to remove it?"*

[5] The Resolution of the Directorate General of Energy Policy and Mines, dated 3 May 2010, includes a template of the "Communication form"

[6] As an exemption, the Government retains a veto possibility for gas trading companies from outside European Union, with not TPA reciprocity. However, the veto has never been applied.

[7] CNMC List of registered gas trading companies

4.3.1 Results from questionnaire

Most responding NRAs consider data management to be a barrier in both the electricity and gas market. Differences in data format and processes between countries, regions within one country and sometimes even between different market actors could hinder equal access to customer data. In addition, many customers do not have remote meter reading. Other processes, such as billing, might also be done partly manually by some smaller market actors. Responses also include the perspective on how to assure that the customer owns and controls his/her own data.

Most NRAs have removed or plan to remove this barrier. The development may be driven by European directives, national legislation or even by an initiative from the market actors themselves. The ongoing roll out of remotely read smart meters and further standardisation of data format and processes are part of the solution in many of the Member States. Some of the respondents suggest a European standard for the data format and information exchange for core processes at the market. Central information exchange systems, so called data hubs, are also (or will be) facilitating data management in some Member States.

CEER members who do not consider data management as a barrier mainly point out well-functioning and standardised processes for data management in their home market.

4.3.2 Case study

Data-hub in Denmark

The data-hub is controlled by the Danish TSO Energinet.dk. The data-hub went into operation in 2013. The legal framework of Energinet.dk is in primary legislation, Law of Energy Supply and specific regulations. In addition, Energinet.dk is drafting market rules on transmission and retail level, and concerning data-hub. These market rules have been approved by the Danish NRA, Danish Energy Regulatory Authority, before they were published.

Energinet.dk is responsible for securing data-quality and granting access to the data-hub. The data migration and data quality is important in order to ensure that the imported data is correct. When developing the data-hub and since its launch, Energinet.dk has been managed in close cooperation with the industry to ensure the effectiveness of the data-hub.

The functionality of the data-hub from the consumer perspective is the following: consumers have access to data through their supplier's webpage for which they need a special data-hub web key. The market players can send their data to the data-hub. All market players must sign and agree to terms and conditions for participation in the data-hub. As an example: "…the electricity supplier is obliged to comply with the market regulations…"

Data can be accessed through the Customer portal and third party access under the control of the consumers. Professors and researchers in the energy sector have access to anonymised micro-data. Public aggregated data are the following: descriptive statistics, general reports and energy database.

Consumers' access to data is primarily from the electricity suppliers. The electricity suppliers are free to choose how to visualise consumption data to their consumers.

4.4 Switching processes

Different timeframes, types of contracts, as well as the availability of data and appropriate channels for exchanging data are barriers that can curb competition. Even small differences can considerably impede the automation of processes across multiple countries or markets.

Competing actively in different markets with the same or similar switching procedures is much more cost efficient than having to establish different routines for each market. The more a company can benefit from synergies, the more it will be able to decrease costs.

The question asked to the NRAs was: *"Do you consider the switching process as a significant barrier to entry for energy suppliers in your MS and have you taken initiatives to remove it?"*

4.4.1 Results from the questionnaire

Most responding NRAs are aware or have experienced that switching processes can hinder new market entrants from participating in the electricity and gas market as they have high costs to establish the framework for all processes to operate accordingly. However, some members also argue that due to the fact that switching processes were susceptible to delays and errors, consumers were discouraged to switch, which in turn lead to low consumer engagement in the market, once again creating a barrier for new market entrants.

In order to offset the negative consequences, some NRAs have clearly defined the switching process in regulations, ordinances and market codes. As an example one NRA stated that it encouraged suppliers and DSOs to improve and speed up the switching process and that the industry followed suit voluntarily.

Among the responses, and in accordance with the proposal made in the conclusions of ACER/CEER Bridge paper to produce a roadmap to secure reliable supplier switching within 24 hours by 2025, unless the cost-benefit analysis is negative, some acknowledge that they are working on shorter timeframes, especially next-day switching. However, at the same time, they are mindful of the upfront costs this development would impose on the industry.

Access to information about the customer (e.g. when a contract ends), metering data and timelines of the process are, among other factors, often potential bottlenecks. A number of members mentioned that they already have or are planning on establishing a data hub to simplify and accelerate switching processes as a strategy to remove this barrier.

Among the NRAs who do not acknowledge switching processes as a barrier to entry, the majority states that adequate legislation on the EU level is in place and was transposed on the national level. The switching processes are well documented in ordinances or market codes and this information is made available for all new suppliers.

5 Barriers specific to cross-border entrants

The barriers to entry set out above will apply to new entrants geographically located both within and outside a given Member State. In this section, we describe barriers to entry specific to cross-border entrants. The chapter starts by looking at the challenges suppliers may face in adapting to languages and cultures, before looking at barriers relating to a lack of homogeneity of systems legislation across Member States.

5.1 Adapting to national languages and cultures

The majority of NRAs who provided answers to the questionnaire do not identify adapting to national language(s) and culture(s)as a barrier for new suppliers to enter into their national electricity and gas markets. The rest of the respondents consider this element as a barrier to entry in their countries, nevertheless the majority of them have already removed or are planning to remove the barrier in their markets.

5.1.1 Results from questionnaire

With regard to national language and translations related to the energy market (both, electricity and gas), NRAs frequently mentioned that important legislation and some information about the market are available in English language (mainly on the NRA website). CEER members also noted that “regional cooperation” makes national legislations widely available. Despite these facts, legislation “field” could pose as a potential barrier.

National specific information about the market is provided to newcomers directly by some NRAs. They also mentioned that language and culture is not only an energy market “barrier” - quite logically in fact. A small number of respondents expressed that some cultural adjustments may lead to improvement of services, implying that this could also be perceived as a “positive barrier”.

5.2 Non-homogeneity of system / legislation

The transposition process of European Directives into national legislation allows Member States to adapt the common framework to their own situations. While flexibility might have been justified regarding the difference in national legislations, in the context of a former monopoly with a limited number of national players, and considering the general trend of globalisation of the economy, the heterogeneity in national legislations may limit competition by discouraging cross-border newcomers.

Adapting to national legislation or processes generates an entry cost for newcomers. The impact of this cost is more important on the newcomer’s business case during the early phase of the market entry process, considering the limited number of income generated at this stage. In some extreme cases, the number of potential consumers governed by a specific legislation might be too limited and the heterogeneity too important to allow entry cost recovery under a reasonable timeframe.

For instance, concerning the switching process, different timeframes, types of contracts, as well as the availability of data and appropriate channels for exchanging data are factors that have to be considered by the newcomer and may generate costs.

The question asked to the NRAs was: *"Do you consider the lack of homogeneity across MSs systems or legislations as a significant barrier to entry for energy suppliers in your MS and have you taken initiatives to remove it?"*

5.2.1 Results from the questionnaire

Most responding NRAs consider non-homogeneity of systems and legislation to constitute a barrier to both the electricity and gas market. It is seen as a complex barrier where the quest for harmonisation and national cost benefit analysis may not always point in the same direction. An additional challenge for the regulatory authorities is that this is not an industry specific barrier. For example, taxes and data protection are cross-sectorial issues. Smaller markets (in number of customers) are also supposed to be less attractive for new entrants.

Cooperation at EU or regional level is the most used tool for reducing this barrier, and three different types of regional cooperation are described in the answers. Within the regional cooperation, market design is aligned by best practice sharing and joint studies, common cross-border mechanisms as well as voluntary agreements and joint recommendations. This aims to ensure aligned market development and to reduce entry cost for cross-border entrants. The fact that this is not an industry specific issue is also partly reflected in one region where the national financial authorities are members of the regional cooperation. Aside from cooperation in different forms, a common European data exchange format for core processes such as switching and moving is suggested in order to reduce this barrier.

The NRAs who do not find non-homogeneity of systems and legislation to be a barrier mainly see the transposing process of EU legislation to national law as the solution to harmonise the markets.

5.2.2 Case study

NordREG cooperation for a harmonised Nordic electricity market

NordREG (nordicenergyregulators.org) is an organisation for cooperation among the energy regulators from Denmark, Iceland, Norway, Sweden and Finland, with a mission to promote a legal and institutional framework necessary for developing the Nordic and European electricity markets. Among the core tenets of the organisation is the development of liberalised and consumer friendly electricity markets. The mandate to harmonise the Nordic retail electricity markets was given to NordREG by Nordic energy ministers through the Nordic Council of Ministers. The Council has also provided funding for NordREG.

One of the key objectives of NordREG is the harmonisation of Nordic retail electricity markets, which follows from the organisation's vision that:

"All Nordic electricity customers will enjoy free choice of supplier, efficient and competitive prices and reliable supply through the internal Nordic and European electricity market"

NordREG currently has the following strategic priorities:

- A truly common Nordic retail market with free choice of supplier.
- A well-functioning Nordic wholesale market with competitive prices
- Reliable supply

- Efficient regulation of TSO

NordREG provides a basis for regulators to cooperate by exchanging views and sharing information on a regular basis. This occurs through working groups and task forces within the organisation. NordREG also hosts workshops on key issues that involve NRAs, TSOs and market actors. The use of NordREG to share information among regulators enables the identification of synergies between projects on a regional basis, and the alignment of national developments where possible.

Working together to map and analyse Nordic energy market issues is also an important part of NordREG's activities. Analyses of identified energy market issues are used for common statements and recommendations, and as input into further national analyses. Such common analyses, statements and recommendations are important drivers for legislative processes in the Nordic region. Many major electricity market developments in Denmark, Norway, Sweden or Finland are anchored in NordREG recommendations. This includes major projects such as the common Nordic balance settlement (NBS), the development of national data hubs and progress towards a supplier centric model.

Common and aligned developments anchored in NordREG recommendations will result in the harmonisation of Nordic electricity markets, significantly lowering the barriers for cross-border supplier and consumer activities. With regards to entry barriers as a specific issue, NordREG took the initiative in 2014 to map entry barriers in the region. The result was the report "Market Entrant Processes, Hurdles and Ideas for Change in the Nordic Energy Market – the View of the Market", reviewing a series of market entry and operational processes that may represent barriers to entry.

All NordREG publications may be found at www.nordicenergyregulators.org.

6 Conclusions

This benchmarking report is the first step of a new initiative of CEER within the general framework of its ongoing contribution for improving competition on European energy retail markets, all of this in the benefit of consumers.

This report provides a high-level framework of relevant barriers to entry for energy suppliers into retail gas and electricity markets across the EU, as well as examples of actions NRAs have taken, are taking - or envisage taking in the future - to remove them.

In particular, the document groups the barriers to entry into four different categories, as set out in the following table. The first three groups of barriers apply both to entrants geographically located inside and those located outside of a given Member State. The final group relates to barriers that only apply to cross-border entrants.

Some barriers, identified in brackets, have not been assessed through the survey, nevertheless, we acknowledge that they should be addressed in future work.

Type of barrier	Description	Barriers included
1. Barriers to market access	*Barriers to entry arising as a consequence of the way the energy supply chain works, and of the characteristics of the gas and electricity products.*	• Lack of access to customer and market information from a suppliers perspective • [Lack of Price transparency] • [Wholesale market functioning]
2. Regulatory barriers	*Barriers associated with the regulatory framework.*	• Impact for regulated end-user prices • Lack of Consideration for innovation in regulation • Inefficient unbundling between distribution and supply companies • [Legislation changes]
3. Barriers to entry arising from differences in processes and standards	*Barriers arising as a result of differences in processes and standards, which make it difficult for a supplier already present in one area to enter another area.*	• Billing format and IT systems • Business processes • Data management • Switching processes
4. Barriers to entry specific to cross-border entrants	*Barriers relating to differences across Member States that specifically apply to cross-border entrants.*	• Adapting to national languages and cultures • Non-homogeneity of system / legislation

In addition, further barriers have been identified in the answers provided by NRAs, including high level of inactive customers, lack of trust, delays in payment, market size and demand.

In 2016, CEER will pursue its work by drafting and providing Guidelines of Good Practice on removing barriers to entry for energy suppliers within European energy retail markets. The work will be based on this benchmarking report and will be in line with the conclusions of ACER's Bridge to 2025 as well as the CEER Position Paper on well-functioning retail energy markets.

Annex 1: List of abbreviations

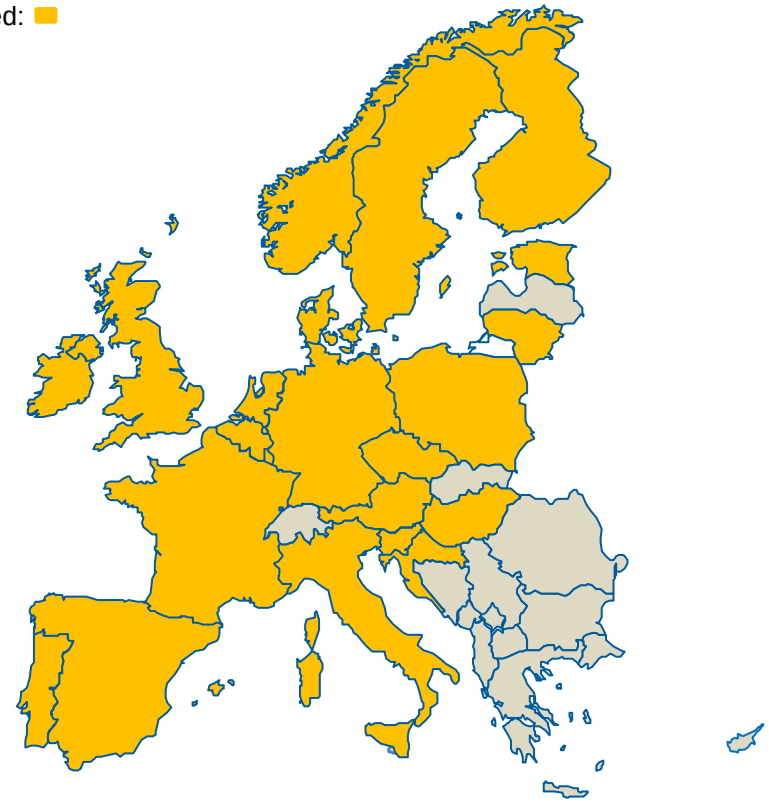
Term	Definition
ACER	Agency for the Cooperation of Energy Regulators
CEER	Council of European Energy Regulators
GGP	Guidelines of Good Practice

Annex 2: List of respondents

NRA	Electricity	Gas
Austria	Yes	Yes
Belgium	Yes	Yes
Croatia	Yes	Yes
Czech Republic	Yes	Yes
Denmark	Yes	Yes
Estonia	Yes	Yes
Finland	Yes	Yes
France	Yes	Yes
Germany	Yes	Yes
Great Britain	Yes	Yes
Hungary	Yes	Yes
Ireland	Yes	Yes
Italy	Yes	Yes
Lithuania	Yes	Yes
Luxembourg	Yes	Yes
Norway	Yes	No
Poland	Yes	Yes
Portugal	Yes	Yes
Slovenia	Yes	Yes
Spain	Yes	Yes
Sweden	Yes	No
The Netherlands	Yes	Yes

Annex 3: Map of respondents

Countries that responded:



Annex 4: Property: Low market entry barriers as defined in the CEER Position Paper on well-functioning retail energy markets

In order to facilitate competition and innovation, barriers to market entry and growth for new market actors (i.e. suppliers and third parties) as well as barriers for innovation (including demand response) need to be as low as feasible.

Metrics:
- Time needed and cost of accessing well-functioning wholesale markets and licencing/balancing regimes
- Percentage of consumers connected to "bundled" DSOs
- Percentage of consumers with regulated energy prices
- Number of common standards for consumer data and for DSO-supplier contracts
- Availability of time-of-use metering and, where applicable, additional fee paid by the consumer to be able to have time-of-use price vs. traditional metering

Barriers to entry can stifle market development and functioning. Examples of such barriers include the use of financial guarantees for access to wholesale markets or of licencing regimes, where the requirements are disproportionate to their protective function. A well-functioning energy market should be one where there is a good environment for innovation of energy services and products that benefit the consumer. There are many different ways for suppliers and/or service providers to innovate. The availability of smart infrastructure would increase and facilitate a supplier or service provider to provide the most adapted offer to customers (e.g. based on accurate consumption information with the appropriate frequency for the customer to have an advantage).

A common denominator for market rules is that they must be based on the key principles of equal and non-discriminatory access for all suppliers, to ensure a level playing field in the market. Here, we present a number of key barriers with a particular relevance to retail energy markets.

Some barriers to market entry result from measures seeking to ensure access to energy as an essential service or to ensure that the market operates to the benefit of consumers. However, such policies should not constrain competition in an undue manner.

Fair access to energy procurement on wholesale markets is a key pre-requisite for any supplier considering entry into the retail market. Access to well-functioning wholesale markets significantly influences a firm's entry decision. A study commissioned by ACER in the context of the 2014 ACER/CEER Market Monitoring Report[8] suggests that access to wholesale markets is perceived as a significant barrier by new entrants. Another issue identified in the study relates to balancing regimes, which may not be well developed and can be expensive for smaller suppliers.

To create a level playing field in retail energy markets, all competitive actors need to compete on the same terms. DSOs should facilitate this by acting as neutral market facilitators. This requires a sufficient level of unbundling between suppliers and associated DSOs. As energy networks are regulated monopolies, DSOs have exclusive access to all customers within their geographic network area. Without sufficient unbundling, this has the potential of disturbing competition in the market. Unbundling, i.e. the separation of DSOs and suppliers within a vertically integrated utility (VIU), is required by the 3rd

[8] E-Bridge (2014), Barriers to cross-border entry into retail energy markets, August 2014

Package. However, application of this provision can depend on the size of the DSO, with small DSOs being exempted from certain requirements. Insufficient unbundling may be an entry barrier for new suppliers. For example, the use of similar branding (brand bundling), can result in customers associating a DSO with its VIU, giving the supplier of the same group a competitive advantage in the market (vis-à-vis new entrants). As a first step, full implementation of the 3rd Package is required in all Member States, in order to limit market entry barriers due to insufficient unbundling.

Furthermore, as indicated in our Conclusions paper "The future role of the DSO", to ensure that DSOs act as neutral market facilitators it is important to subject them to a greater extent to the legal and management unbundling regime. This would result in a high common standard of independence from VIUs in operating the distribution network. A proportionate approach to de minimis threshold (above which EU requirements apply to DSOs) should therefore be adopted. We suggest adjusting the current de minimis threshold so as to restrict the number of customers connected to distribution systems operated by DSOs falling below the de minimis threshold to a very small share of all customers. We consider that this approach would provide more flexibility in examining "special cases". We recognise that adjusting the de minimis threshold is a matter for each Member State. However, a more economic approach is required from a regulatory perspective. Only very small DSOs should have the possibility of being a de minimis DSO, thus recognising the varying commercial capabilities of differently sized DSOs. We also suggest considering a new approach which would link de minimis exemptions to a specified balance sheet total and net turnover threshold. Obviously, special care would need to be taken to avoid providing an incentive to split larger entities into smaller ones to come within the threshold. Adapting the de minimis rule to the specific structural conditions existing in each Member State could help in ensuring that only truly marginal situations are covered by this rule.[9].

In many European countries, regulated prices for household customers continue to apply; acting as a major entry barrier. As a general principle, regulated prices distort competition in the market and prevent a level playing field between competing suppliers. They should be abolished as soon as practicable, i.e. where retail competition exists and when it has reached a minimum level. Regulated prices set below cost remove the opportunity for supplier profits and create deficits which need to be recovered elsewhere. This prevents new actors from entering the market and acquiring customers and is therefore detrimental to the functioning of retail markets. CEER fully supports the European Commission's call to phase out regulated prices. As indicated in the Retail Communication, examples of the successful phase-out of regulated prices in some Member States may present lessons for other Member States. As part of a broader exercise on "how to remove barriers to market entry", regulators have begun work on identifying experience in Member States on removing price regulation.

Data management can also be a barrier to entry and to market growth. CEER believes that efficient, safe and secure data exchange between stakeholders is vital to reducing entry and growth barriers and to ensuring retail market functioning. This is critical both for the privacy and integrity of customers and for effective competition. To promote competition and lower the barrier to entry, new suppliers and other third parties need to be able to access relevant customer meter data[10] on equal and non-discriminatory terms. A

[9] The future role of the DSO - A CEER conclusions paper – Ref:C15-DSO-16-03
[10] As defined in CEER Advice on data management for better retail market functioning – Ref. C14-RM-68-03, Customer meter data comprises of point of delivery identification data, user and contract data, and consumption data.

transparent and efficient data management process is essential to ensure smooth processes (such as moving, switching, billing, contracting for suppliers and other service providers). In addition, suppliers having to enter into many contracts/interactions with many DSOs in order to sell electricity or gas in a country can also be a barrier to entry. The existence of standardised contracts could help address this. Another option is to create a data hub (at national or regional) level. Furthermore, with the arrival of aggregators and other third parties in retail markets, new opportunities and challenges arise related to data access. Data protection and standardisation at national or European level are key to any well-functioning data management system. As mentioned above, the Green Button initiative allows easy access to standardised data. Such an approach has the potential to help overcome this market barrier.

The availability of smart metering equipment and systems which allow time-of-use meter readings is a pre-requisite for consumers to be able to opt into implicit demand response schemes. Smart meters may also enable explicit demand response services through a dedicated standard interface, either as mandatory equipment or an option. For this reason, we have included a proxy on the availability of time-of-use metering.

About CEER

The Council of European Energy Regulators (CEER) is the voice of Europe's national regulators of electricity and gas at EU and international level. CEER's members and observers (from 33 European countries) are the statutory bodies responsible for energy regulation at national level.

One of CEER's key objectives is to facilitate the creation of a single, competitive, efficient and sustainable EU internal energy market that works in the public interest. CEER actively promotes an investment-friendly and harmonised regulatory environment, and consistent application of existing EU legislation. Moreover, CEER champions consumer issues in our belief that a competitive and secure EU single energy market is not a goal in itself, but should deliver benefits for energy consumers.

CEER, based in Brussels, deals with a broad range of energy issues including retail markets and consumers; distribution networks; smart grids; flexibility; sustainability; and international cooperation. European energy regulators are committed to a holistic approach to energy regulation in Europe. Through CEER, NRAs cooperate and develop common position papers, advice and forward-thinking recommendations to improve the electricity and gas markets for the benefit of consumers and businesses.

The work of CEER is structured according to a number of working groups and task forces, composed of staff members of the national energy regulatory authorities, and supported by the CEER Secretariat. This report was prepared by the Retail market functioning Task Force of CEER's Customer and retail market Working Group.

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More information at www.ceer.eu.