



ETSO Comments on the European Commission's discussion document « Congestion Management »

Prepared for the 10th European Electricity Regulatory Forum (the "Florence Forum")
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ETSO welcomes these new draft guidelines on Congestion Management, that are very much in line with ETSO previous positions and proposals. ETSO thus thinks that they are a good basis for the discussion on how to implement the forthcoming regulation.

We have nevertheless the following specific comments regarding its practical application.

General Comment

One of the cornerstones of the regulation is a specific and clear requirement to apply market-based solutions in all congested borders in the EU. ETSO has always fully agreed and supported this view, as market-based mechanisms are fair and non discriminatory, and allocate the capacity to the market participants that will use it best. Furthermore, with the suppression of the Transport tariffs for cross-border trade from 2004, market-based congestion management mechanisms will be the only solution to provide relevant short-term economic signals to market participants. ETSO calls for implementation of market-based congestion management mechanisms at all congested borders between Member States by the end of 2004.

In order to make this part of the regulation completely unambiguous, it is necessary to clearly define what are market-based mechanisms. We think that this issue should appear explicitly in the guidelines.

Finally, our latest work has shown that congestion management can be a key factor to increase or decrease market power of significant actors inside their relevant markets. If they are not properly designed with this issue in mind, market-based mechanisms may be counter-productive. On the contrary, if designed to take Market Power into account, market-based mechanisms will help for a well-functioning Internal Electricity Market. TSOs have clearly a key role in this design.

Co-ordination

While agreeing with the stated requirements, ETSO would like to point out that these requirements may face legal and regulatory obstacles in some EU countries, that will need to be removed before its practical application.

Transparency

ETSO has always supported the transparency guidelines from CEER, and generally agrees with these requirements. We would like nevertheless to point out that our latest works show that too much information may be also be counter-productive, as it may facilitate abuse of market power by 'implicit co-ordination' of some powerful market actors.

Some of these requirements will face legal and regulatory obstacles in some EU countries, particularly regarding national definitions of confidential information, that may need to be removed.

Maximising the use of interconnectors

ETSO members are in favour of strong co-operation between TSOs and Power Exchanges, specially for congestion management issues. 'Market Coupling' is a mechanisms fully consistent with the ETSO Vision on Congestion Management, already presented in the Florence Forum framework. The implementation of market coupling clearly requires the joint skills of Transmission System Operators and Power Exchanges.

But ETSO has a concern about the second guideline '*a requirement for all Member States to have a power exchange with measures to encourage sufficient liquidity for the purposes of managing a proportion, or even all, cross-border flows*'.

- This guideline would be difficult to implement without discrimination in favour of power exchanges and against bilateral trade. Today ETSO thinks that most market players, at least in Continental Europe, want to have the possibility to make international bilateral contracts (medium and long term).
- The conclusion that integration between capacity and power exchanges markets is needed in order to maximise the use of the interconnection is based on a particular market design and organisation that is not common in all member states. This measure would have profound impacts on market design for a number of countries (as for example England and Wales).
- Finally, this guideline may give a monopoly to certain power exchanges over international trade within the control area where they operate – and constitute a barrier for the installation of several power exchanges in the same country.

We suggest thus to change this guideline to '*a requirement for all member states to implement market procedures for the allocation of available capacity*'. Provided a clear definition of market-based mechanisms, this guideline should be sufficient to provide for an efficient internal electricity market.

It should also be noted that ETSO has always supported that in some cases it would be useful to consider more than one allocation mechanism (e.g. a combination of co-ordinated explicit auctions, market coupling, redispatching, ...) in order to maximise

the use of the interconnection. We think that the guidelines should specifically address this possibility.