



– Position paper –

Call for Harmonised Implementation of the Clean Energy Package: Independent Aggregation Rules to Unlock Full Potential of Demand-side Flexibility

I - Introduction

Brussels, 16 June 2021 | Independent Aggregators (IAs) have the potential to provide an additional means of accessing the market for small producers and end consumers, including prosumers, small-scale RES producers and DSR flexibility providers. Independent aggregators can be relevant for the further unlocking of incentive-based (explicit) demand response, bundling smaller amounts of flexibility into larger amounts that are dispatchable and which can be traded on European coupled wholesale and/or in local flexibility markets. They can also indirectly overcome market entry barriers (such as minimum bid sizes, complexity and costs for settlement and clearing, communication requirements, regulatory complexity, etc.) for smaller companies and individuals that wish to be ‘prosumers’ or flexible regarding their energy use but which individually are too small to handle daily requirements in a secure and profitable way. Enabling independent aggregation is therefore an important step in further unlocking the potential of demand-side flexibility resources in Europe.

The Clean Energy Package has formalised independent aggregation for the first time at EU level, mandating Member States to recognise and enable this type of market participant. Independent aggregators no longer need any prior consent from suppliers to enter the market and can provide specialised, innovative services to consumers, leveraging detailed knowledge of energy markets. However, a set of framework rules for aggregation is still missing in many Member States and regulatory barriers or uncertainties for aggregators and parties affected by their actions remain. On the one hand, full implementation of the Clean Energy Package (CEP) is needed, including, for example, legal recognition of independent aggregators, their ability to enter the market without supplier consent and wider requirements such as full access to energy wholesale markets, including balancing and ancillary services, data access etc.¹ On the other hand, additional EU level guidance on CEP implementation is needed in two important areas, as explained below.

¹ The SmartEn monitoring [report](#) on Implementation of the Electricity Market Design to Drive Demand-side Flexibility, November 2020 provides a good overview. The transposition deadline for several important provisions in the Electricity Directive was December 2020.

II – Need for further guidance on roles and responsibilities (independent aggregator, supplier, BRP), including compensation models for the supply position

Independent aggregation means that the aggregator is not affiliated to the customer's supplier², implying it can operate without the consent of the supplier and without a contract with the supplier. When the customer's supplier and aggregator are different parties, additional settlement arrangements need to be in place. In some Member States or third countries³, basic legal recognition of independent aggregators (IAs) in the national regulatory framework is still missing. Furthermore, the customers' adjustment in consumption also needs to be considered, because in explicit DSR the activation of flexibility by the aggregator creates deviations in the expected consumption or generation patterns of the customer. When a customer modifies their consumption following activation of a DSR event, this results in several issues:

- i) A difference between the energy volumes purchased by the supplier according to its forecast and what is actually consumed by its customers - this is known as the open energy position⁴;
- ii) An imbalance position for the supplier, possibly leading to imbalance fees;
- iii) A change in consumption may also occur shifted in time from the demand response (DR) activation and in an opposite direction, known as 'rebound effects', e.g. a consumption decrease due to DR activation can cause a consumption increase at a later point in time.

The CEP mandates that the IA bears the financial responsibility for any imbalances they cause. However, the arrangements to deal with the impact on the supplier are left open. In particular, Article 17(4) of the Electricity Directive leaves it up to Member States to decide whether to implement some form of financial compensation⁵ for the loss of revenue resulting from avoided (or increased) consumption and any subsequent transfer of energy. While some core principles are defined, the details of the methodology are left to be defined at national level, with no clear reasoning as to why this choice was made. Different implementation models of Article 17(4) will *de facto* create a barrier to the further integration of the Internal Energy Market, e.g. due to costs associated with IT requirements or the complexity of national arrangements which may impede new entrants and limit cross-border competition. Certain solutions may also effectively prevent aggregator business models which rely on selling the flexibility on the spot market (see Box 1). Furthermore, different approaches are being taken

² Article 2(19) of Electricity Directive (EU) 2019/944.

³ Referring collectively to EEA Member States, Energy Community Contracting Parties and GB.

⁴ In the event of reduction in consumption following a DSR activation, energy purchased by the supplier that cannot then be sold will have a cost attached to that. In case of a DSR event increasing consumption, the supplier can sell additional energy.

⁵ Compensation by the aggregator or the consumer to the supplier or their BRP for avoided consumption.

to assessing net costs, i.e. supplier costs vs. the full energy system benefits created by the DSR activation which impacts who will pay compensation and how much.

Box 1: Example of a potential market barrier from a market price compensation model

The CEP mandates that independent aggregators (IAs) as well as consumers can participate in all markets, including wholesale spot markets. An IA may typically contract with consumer metering points to lower consumption and then wish trade these resources on the wholesale market. However, depending on how the compensation is calculated, it may impact wholesale market access for the IA. If the supplier demands compensation via a methodology which prices it according to the day ahead market price, and the IA bears the full compensation cost, the IA would pay to the supplier the same amount as he would receive from the market, with the effect of closing access to the day ahead market for the IA (or at least preventing this business model). If compensation links rather to the costs of the supplier's open energy position, then clarity is needed on how this is calculated as well as how the overall benefits of aggregation are taken into account.

The issue of compensation has been comprehensively debated with various models proposed – for example the central settlement model proposed by SEDC, now SmartEn, aimed at avoiding cumbersome negotiations between the aggregator and supplier. Work has also been ongoing to classify different aggregator implementation models to clarify the relationship between independent aggregators, BRPs and suppliers (see for example the USEF⁶ project or the EBIX harmonised electricity market role model) and pave the way for a more standardised framework. While there may be no 'one-size fits all' model, further EU-level guidance is necessary on the financial flows between the independent aggregator, supplier and consumer, with a view to ensuring that implemented solutions are compatible with the CEP and the Electricity Balancing Guideline (EB GL) and do not create barriers (direct or indirect) to market participation. Without such guidance, there is a risk that independent aggregators, or certain models of aggregation, will not be able to enter the market in some Member States or third countries.

III – Importance of the harmonisation of the baseline methodology

The concept of transfer of energy requires a methodology to approximate the energy consumption or production that would have occurred if no demand response event had been triggered (known as the 'baseline'). This is a necessary precondition to allow independent aggregation and to quantify the delivered flexibility. While work has been ongoing on these

⁶ Possible models have been defined along key parameters, such as the presence of a contract between the aggregator and supplier (or their BRP), who retains the balance responsibility, whether there is need for a perimeter correction (an adjustment of the energy imbalance volume) as well as the compensation for the transfer of energy.

methodologies, the potential for significant differences between Member States remains. While certain details of the baseline methodology may need to be determined nationally, EU-level harmonisation is key to prevent radically different approaches (and thus creating market entry barriers should aggregators wish to expand their activities in other Member States). Any EU-level harmonisation work should also consider whether specific baseline methodologies may need to be applied to different markets or for different groups of market participants, such as household consumers.

IV - Conclusions

Even if there is no formal network code on flexibility at this stage, steps could be taken to provide practical EU-level recommendations or guidance on the two issues described above. In both cases (settlement compensation and baseline methodology) a catalogue of best practices could be developed to help narrow the number of current open options and minimise the divergence in national implementation models.

Such guidance should also assess compatibility of the implementation options with the CEP principles and with the EB GL requirements. Any compensation models implemented should not discriminate against new entrants and ensure a fair allocation of costs among parties. Solutions should aim to incentivise independent aggregation where it leads to overall positive outcomes for the system.

Work should continue to fully implement the Clean Energy Package and to put in place the wider framework needed to encourage explicit and implicit demand-side response and ensure consumers who want to can access price signals. Necessary measures include access to smart meters and dynamic tariffs, a phase out of regulated retail prices and appropriate time-dependent network charges and grid tariffs which reward flexibility.

About

Europex is a not-for-profit association of European energy exchanges with 29 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

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