



## EFET reaction to the CNMC and ERSE recommendation to REE and REN on their proposals for intraday market design



20 December 2017

EFET appreciates the publication on 17 November of the CNMC and ERSE's request for amendments to the TSOs' proposal on complementary regional auctions to XBID in the Iberian region.

We acknowledge the efforts of both Regulators to clarify their view of the current intraday market design and its possible evolutions in view of making it fit for purpose for the launch of the XBID platform. In particular, we welcome the clarification that portfolio bidding will be allowed in Iberia on XBID, although we have doubts about the authorities' understanding of this concept considering the limitations they put to trading and nomination procedures. We also appreciate that complementary regional auction Model B is recognised as the one closest to the spirit of the intraday market foreseen by the CACM Guideline, as well as the regulators' intention to re-assess the number of regional auctions, though both these recommendations should only be implemented at a later stage.

Overall, the improvements identified in the NRAs' recommendation are still largely insufficient to ensure the development of efficient cross-border intraday power markets in the region. **The objective of the XBID project is to allow efficient matching of offer and demand at each point in time via continuous intraday trading throughout Europe, while ensuring efficient cross-border access to transmission capacity through implicit allocation.** The European Commission and ACER have identified XBID as the priority number one to develop better cross-border access to and integration of intraday markets across Europe, and so has EFET. These authorities have also taken a commitment towards market participant at the start of the project that **the implementation of XBID and, where relevant, complementary regional auctions should not lead to any step backwards in terms of market efficiency.** Despite progress on certain elements of Iberian intraday market design contained in the amendment request of CNMC and ERSE, we believe that **the regulators' recommendations still fall short of making XBID a priority and do not guarantee that the efficiency of the market – also beyond the Iberian Peninsula – will not be negatively affected.**

The scope of this statement is to make further recommendations to provide a sound Iberian intraday market design and make it fully fit for cross-border implicit intraday trading on the continuous XBID platform.

## **1. Regional auctions design**

As mentioned in previous contributions on the design of regional complementary intraday auctions in the Iberian Peninsula<sup>1</sup>, **the priority of EFET is the completion of the XBID project and its effective implementation throughout Europe.** Should TSOs and regulators of the Iberian region wish to establish complementary regional auctions, these should be compliant with the European target model and have as little impact as possible on XBID. We reiterate that **our vision for complementary regional auctions in Iberia is with one single opening auction, giving the opportunity to market participants to negotiate in XBID continuous market all available hours of given day D without restrictions and well in advance of real time.**

EFET considers both Model A and Model B for Iberian complementary auctions to be very far from our preferred solution outlined above, as well as from the spirit of the CACM Guideline. In its current form, Model A clearly contradicts the Target Model and is therefore not acceptable in the mid to long term, as it does not allow market participants to trade all hours of a given day at any time in XBID. Model B presents a better compromise, as it would allow market participants to trade sufficiently in advance of real time in XBID by opening all 24 hours of the day for negotiation, even though the continuous market would be repeatedly interrupted.

**While we welcome the recognition by CNMC and ERSE of Model B with a reduced number of auctions as a target, the regulators propose the implementation of Model A at the go-live of XBID. The implementation of Model B is only proposed with a tentative implementation date 12 months later, and without clear requirement or timeline to reduce the number of auctions.**

The regulators justify this approach by a supposed lack of experience of Iberian market participants with continuous trading and a need to adapt internal procedures and IT systems to the new environment. Looking at the responses to the regulators' September 2017 consultation, we are surprised by this statement, as it does not appear that market participants voiced such a concern. This can be explained by the fact that many of them are already active on continuous markets elsewhere in Europe. Further, we believe that the need for market participants to adapt to continuous trading in the Iberian region is in any case an irrelevant factor to decide on whether to adopt Model A or Model B for the regional complementary auction. At best this would be a justification for not moving immediately to a single opening auction, which we are ready to consider as a gradual evolution. Finally, we would like to remind CNMC and

<sup>1</sup> See notably the EFET response to the public consultation for complementary intraday regional auctions for the Spanish-Portuguese bidding zone border, dated 11 September 2017, available at: <http://www.efet.org/Files/EFET%20response%20on%20ID%20regional%20auctions%20Sp-Pt%2020170911.pdf>.

ERSE that EFET has advocated design changes in the Iberian intraday market since the early 2010s to facilitate its transition towards the target model, largely to no avail<sup>2</sup>.

Therefore, **EFET firmly reiterates its request for the implementation of Model B as soon as possible, preferably for the launch of XBID in Q1 2018 and not 12 months later, accompanied with clear requirements and a precise timeline to rapidly reduce the number of auctions to one single opening auction.**

## **2. Level-playing field among all market participants in the regional auctions**

EFET remains **concerned with regard to the effective opening of regional auctions to all market participants, including foreign trading entities without assets or customers in the Iberian region.** Also, we wonder how electricity purchased/sold in the regional auctions could be flowed across the French-Spanish border and to/from the rest of Europe until the pan-European intraday auction will be implemented.

In the request for amendments of CNMC and ERSE, the **interaction between the regional Iberian intraday auction and XBID in the rest of Europe is, in our view, given too little consideration.** As it stands, the practical effect of the Iberian auction, with a suspension of XBID in the Iberian region, will be a ‘freezing’ of continuous trading at the French-Spanish border. Combined with the disappearance of the explicit auction at the French-Spanish border, this will result in **foreclosing access to this border for all European market participants each time XBID is suspended in Iberia.** In our view, this is incompatible with the commitment taken by European regulators, ACER and the European Commission that the implementation of XBID would not result in any step backwards for market efficiency. Further, this induces a breach of competition between market participants of Iberia on the one hand, and the rest of Europe on the other hand, which violates European competition rules.

As mentioned in the first section of this paper, we do not support the Iberian regulators’ proposal to implement complementary region auction Model A, even as a transitory phase. Should CNMC and ERSE nonetheless proceed with this approach, we believe there are different options available to avoid the *de facto* suspension of XBID at the French-Spanish border and the ensuing discrimination of non-Iberian market participants in accessing the Iberian intraday market:

<sup>2</sup> See notably the EFET recommendations for a timely implementation of market opening and integration in intraday markets, dated 21 May 2012, available at: [http://www.efet.org/Files/Documents/Electricity%20Market/Spot%20and%20short-term%20markets/EFET-Letter-on-Intraday\\_21-05-2012.pdf](http://www.efet.org/Files/Documents/Electricity%20Market/Spot%20and%20short-term%20markets/EFET-Letter-on-Intraday_21-05-2012.pdf) (update of 8 April 2015 available at: [http://www.efet.org/Files/Documents/Electricity%20Market/Spot%20and%20short-term%20markets/Five-Principles-for-efficient-XB-ID-trading%20\(2\).zip](http://www.efet.org/Files/Documents/Electricity%20Market/Spot%20and%20short-term%20markets/Five-Principles-for-efficient-XB-ID-trading%20(2).zip)).

See also the EFET letter to the Spanish Ministry on recommendations for changes in day-ahead and intraday market design, dated 25 February 2014, available at: <http://www.efet.org/Files/Documents/Downloads/Cambio-Reglas-de-Mercado.pdf>, the EFET letter to CNMC on intraday cross-border transmission capacity, dated 12 November 2014, available at: [http://www.efet.org/Files/Documents/Downloads/Carta-IETF\\_ID-y-reservas-terciarias.pdf](http://www.efet.org/Files/Documents/Downloads/Carta-IETF_ID-y-reservas-terciarias.pdf), and our recommendations for the improvement of MIBEL intraday power, dated 2 August 2017, available at: <http://www.efet.org/Files/20170802%20EFET%20IBERIAN%20XBID.pdf>.

- **A design of the auction whereby XBID as such would not be halted in Iberia, but the capacity at the Spanish-Portuguese border would be set at zero during the time of the auction would have the benefit of maintaining the ability for Iberian TSOs to run auctions and price capacity at that border without unduly affecting cross-border access in any other part of the common continuous intraday market.** As the French TSO RTE pointed out in its response to the Iberian regulators' consultation, this model considered by the Italian authorities for their Northern borders would avoid unnecessary limitations to XBID for European market participants and would maintain liquidity on the continuous market.
- Should the Iberian authorities rule out this option, **maintaining explicit access to capacity at the French-Spanish border seems to us as the only other practical solution compatible with the current design of the Iberian intraday market to avoid discrimination of foreign market participants.**

### **3. Making portfolio bidding work**

As mentioned in our introduction, we appreciate the Iberian regulators' intention to allow portfolio bidding in the intraday market, even if only on the XBID segment. However, in order to make sure that portfolio bidding and its merit are truly effective, we need to make a number of observations:

- We are concerned that with the current NRAs' proposal, portfolio bidding will remain only on paper: **the merit of portfolio bidding relies essentially on the freedom of market participants to choose and activate whichever plants they wish within their portfolio.** By requiring a market participant to trade on the market every variation of schedules, instead of simply allowing the increase or decrease of production from plants within the same portfolio, the spirit and value of portfolio bidding would actually be lost. Therefore, we fail to understand the rationale behind the affirmation according to which "in order to keep a level-playing field between large market participants and small ones, it is important to ensure that any variation of generation plants and consumption units must be traded through the market and not just identified in the nomination process directly to the TSOs". This line of argumentation is very vague and fails to provide appropriate explanation over the need to engineer such a convoluted solution.
- In the example below, we aim to explain what would happen in case market participants would be forced to trade on the market any variation of the schedules of generation plants and consumption units. For this purpose, let's assume we have a market participant operating 2 units in his portfolio, unit A and unit B:
  - At day-ahead stage, unit A has scheduled a production of 10 MW, while unit B has scheduled a production of 20 MW. The total balance of the portfolio is therefore 30 MW (sell).

- During the intraday market session, unit A incurs an outage and its production is limited to only 5 MW.
- How portfolio bidding should work: the market participant decides that it makes economic sense to increase the production of its unit B to 25 MW to counteract the partial inability to produce of unit A. At the intraday market gate closure, the market participant will directly nominate to the TSO the following schedule: Unit A produces 5 MW; Unit B produces 25 MW. It is evident that the net balance of the portfolio remains unchanged and equal to 30 MW (sell).
- How it would work instead, following the NRAs' proposed restrictions: following the outage of unit A and the decision to increase the production of unit B, the market participant would be forced to trade these variations via the market. In practice, the market participant should:
  - For unit A: put an bid, for the relevant period, of 5 MW in 'buy' (buy-back 5 MW);
  - For unit B put an offer, for the same relevant period, of 5 MW in 'ask' (sell additional 5 MW) at the same price.

Therefore, instead of simply adjusting the schedules of its own portfolio via the nomination process to the TSO, the market participant would be forced to put two opposite orders in the market to buy and sell for the same quantity. This would have two important negative consequences:

- 1) The market participant would face the risk of being taken up on one of the two legs of his trade by another market participant, potentially incurring a loss and in any case leading to inefficient portfolio netting;
- 2) The act of putting two simultaneous offers on both buy and sell sides, for the same product at the same price, clearly constitute an example of 'wash-trade'<sup>3</sup> under REMIT and hence a clear act of market manipulation. Therefore, the market participant would not only risk being prosecuted for a fake 'wash-trade' (as it is only readjusting the schedules of its portfolio), but would send a false price signal to the market and would risk creating confusion with the true 'wash-trades'. **Overall, it is clear how the obligation to net the positions in the market and not via a simple nomination to the TSO risks being counter-productive and illegal according to REMIT, and would actually undermine the effectiveness of the whole market supervision activity.**

As mentioned multiple times by EFET, we recommend not mixing up commercial and physical phases: at the intraday gate closure, **a market participant allowed to trade on portfolio should be entitled to allocate the total amounts purchased or sold to the individual units of its portfolio and directly nominate these schedules to the TSO** (nomination or 'scheduling'). In all other main European markets, this is normal

<sup>3</sup> 'Wash trade A to A', ACER Guidance Note 1/2017, Example 1 at p.8 <https://www.acer-remit.eu/portal/document-download?documentId=u518na123yg>

practice, while transparency scrutiny (see below for more details) can be done via existing regulations without constraining market design. Finally, this solution will provide exactly the same opportunities to big and small participants in the market. Therefore we advise the Iberian NRAs to revise their approach to ensure that portfolio bidding is effectively implemented for trades on XBID.

#### **4. Transparency concerns**

A large part of the design choices proposed by the Iberian regulators in their request for amendments seems to stem from concerns linked to the level of transparency currently in place in the Iberian market. **Market transparency and oversight are vital for the market to ensure a level-playing field for all market participants. Very logically, EFET has been a primary sponsor of transparent and lawful conduct of trading activities in the market since its inception.**

While we fully support a high-level of market transparency and oversight, we stress that several national and European regulations, notably REMIT and MAR Regulations, now provide this framework. Further, the Transparency Regulation requires market participant to disclose important information that is transmitted to TSOs and regulators. Finally, EMIR ensures the reporting of trade orders. This very complete framework of European legislative instruments provides appropriate reassurance to the regulators of most other European jurisdictions in terms of market transparency.

As mentioned in our paper on the importance of free formation of prices<sup>4</sup>, while legislation preventing market misconduct and abuse of dominant position is vital to ensure the free participation of all actors in the market on a level-playing field, it should be proportionate to its aim and not unduly restrict market design or bidding behaviour.

**We believe that some of the intraday market design choices proposed by the Iberian regulators in their request for amendments is constrained by legitimate transparency concerns which are however already addressed in European legislation.** Therefore, we recommended Iberian NRAs not to over-engineer their solutions and restrict electricity market design evolutions when appropriate and better-suited measures are already in place at European level to ensure efficient transparency and supervision of the market. Should CNMC and ERSE be willing to perform extra checks, these could be done on an ex-post basis, without putting in place unnecessary constraints on the intraday market design.

<sup>4</sup> See our paper The importance of free formation of prices in the European wholesale electricity market, dated 2 June 2016, available at: [http://www.efet.org/Files/Documents/Electricity%20Market/General%20market%20design%20and%20governance/EFET\\_Free-formation-of-prices-power-market.pdf](http://www.efet.org/Files/Documents/Electricity%20Market/General%20market%20design%20and%20governance/EFET_Free-formation-of-prices-power-market.pdf).