

CASC.EU answer to ACER public consultation on list of organised market places under REMIT

10th December 2014

Introduction

CASC.EU was created in 2008 by the TSOs of the CWE Region further to the Memorandum of Understanding (MoU) signed by the Ministries, regulators, TSOs, power exchanges and representatives of the market participants of the five CWE countries, to establish an auction office as a means of putting into place the objectives of the regulation (EC) No. 1228/2003 which included a single auction office to provide capacity allocation tasks on behalf of the TSOs. Since 2008, CASC has gained an additional nine TSOs as shareholders, to reach a total of fourteen shareholders. CASC is a non-profit oriented service provider for TSOs. However, at the same time maintaining the regulatory responsibility with the TSOs.

Consequently, the task of capacity allocation is performed by CASC according to the Auction Rules written by the TSOs and approved by the respective national regulatory authorities. As such, the task of capacity allocation is a task of TSOs, who are the regulated entities.

CASC.EU welcomes the opportunity to submit their views on the list of organised market places based on the adopted REMIT Implementing Acts.

CASC.EU is concerned about consultation question number 3 since transmission system operators (TSOs) need to submit transportation contracts either by themselves or by third party acting on their behalf. For the sake of simplicity, it might be the case that CASC.EU may provide these data on behalf of those TSOs for which they organise the primary cross-border capacity allocation.

Consultation question

3. For the reasons stated above (see point 1. in paragraph 4 of this consultation paper), the Agency currently believes that primary auction platforms for transportation contracts do not have to be listed as organised market places. Do you agree with this approach? Please justify your reply.

In light of what is mentioned in the introduction, CASC.EU agrees that auction platforms, such as the one provided by CASC.EU, cannot be qualified as an organised market place.

In the primary market, auction platforms, on behalf of the TSOs, put at the disposal of the market participants the capacities that have been determined by the TSOs and allocates

these capacities to the market participants in accordance with the terms and conditions set forth in the Auction Rules. In that sense, CASC.EU considers that the auction platforms do also not arrange transactions in wholesale energy products, because:

- Auction platforms are not a person acting on their behalf to professionally arrange transactions; they are not a third party practicing a business, they are only a vehicle of cooperation between TSOs, who are, through the auction platform, parties to the transactions;
- There is no multiple third party buying and selling interests in wholesale energy products: there is only one selling interest, which is that of TSOs acting via the auction platform.

Additionally, in the secondary market, auction platforms do not organise such a market; they are not involved in the transactions, which are not concluded on the auction platform interface; the role of the auction platform is extremely limited, because it only receives the notification of the transactions in question.

In that sense, auction platforms are neither an *organised market place* (Article 2.4) nor do they *arrange transactions in wholesale energy products* (Article 15) as defined in the REMIT Implementing Acts. Therefore, auction platforms shall not be subject to specific and personal requirements under REMIT. In addition, even if auction platforms act on behalf of the TSOs, they simply act within the framework of the Rules established by the TSOs and it is not intended to bear on their own the obligations already borne by the TSOs. TSOs have to be compliant with REMIT and, under the monitoring of their respective NRA.