

*Article 17***Demand response through aggregation**

1. Member States shall allow and foster participation of demand response through aggregation. Member States shall allow final customers, including those offering demand response through aggregation, to participate alongside producers in a non-discriminatory manner in all electricity markets.
2. Member States shall ensure that transmission system operators and distribution system operators, when procuring ancillary services, treat market participants engaged in the aggregation of demand response in a non-discriminatory manner alongside producers on the basis of their technical capabilities.
3. Member States shall ensure that their relevant regulatory framework contains at least the following elements:
 - (a) the right for each market participant engaged in aggregation, including independent aggregators, to enter electricity markets without the consent of other market participants;
 - (b) non-discriminatory and transparent rules that clearly assign roles and responsibilities to all electricity undertakings and customers;
 - (c) non-discriminatory and transparent rules and procedures for the exchange of data between market participants engaged in aggregation and other electricity undertakings that ensure easy access to data on equal and non-discriminatory terms while fully protecting commercially sensitive information and customers' personal data;
 - (d) an obligation on market participants engaged in aggregation to be financially responsible for the imbalances that they cause in the electricity system; to that extent they shall be balance responsible parties or shall delegate their balancing responsibility in accordance with Article 5 of Regulation (EU) 2019/943;
 - (e) provision for final customers who have a contract with independent aggregators not to be subject to undue payments, penalties or other undue contractual restrictions by their suppliers;
 - (f) a conflict resolution mechanism between market participants engaged in aggregation and other market participants, including responsibility for imbalances.
4. Member States may require electricity undertakings or participating final customers to pay financial compensation to other market participants or to the market participants' balance responsible parties, if those market participants or balance responsible parties are directly affected by demand response activation. Such financial compensation shall not create a barrier to market entry for market participants engaged in aggregation or a barrier to flexibility. In such cases, the financial compensation shall be strictly limited to covering the resulting costs incurred by the suppliers of participating customers or the suppliers' balance responsible parties during the activation of demand response. The method for calculating compensation may take account of the benefits brought about by the independent aggregators to other market participants and, where it does so, the aggregators or participating customers may be required to contribute to such compensation but only where and to the extent that the benefits to all suppliers, customers and their balance responsible parties do not exceed the direct costs incurred. The calculation method shall be subject to approval by the regulatory authority or by another competent national authority.
5. Member States shall ensure that regulatory authorities or, where their national legal system so requires, transmission system operators and distribution system operators, acting in close cooperation with market participants and final customers, establish the technical requirements for participation of demand response in all electricity markets on the basis of the technical characteristics of those markets and the capabilities of demand response. Such requirements shall cover participation involving aggregated loads.

Additional references

Recital 39 in the Directive

- (39) All customer groups (industrial, commercial and households) should have access to the electricity markets to trade their flexibility and self-generated electricity. Customers should be allowed to make full use of the advantages of aggregation of production and supply over larger regions and benefit from cross-border competition. Market participants engaged in aggregation are likely to play an important role as intermediaries between customer groups and the market. Member States should be free to choose the appropriate implementation model and approach to governance for independent aggregation while respecting the general principles set out in this Directive. Such a model or approach could include choosing market-based or regulatory principles which provide solutions to comply with this Directive, such as models where imbalances are settled or where perimeter corrections are introduced. The chosen model should contain transparent and fair rules to allow independent aggregators to fulfil their roles as intermediaries and to ensure that the final customer adequately benefits from their activities. Products should be defined on all electricity markets, including ancillary services and capacity markets, so as to encourage the participation of demand response.

Recital 15 in the Regulation

- (15) Title V of Regulation (EU) 2017/2195 established that the general objective of imbalance settlement is to ensure that balance responsible parties keep their own balance or help restore the system balance in an efficient way and to provide incentives to market participants for keeping or helping to restore the system balance. To make balancing markets and the overall energy system fit for the integration of the increasing share of variable renewable energy, imbalance prices should reflect the real-time value of energy. All market participants should be financially responsible for the imbalances they cause in the system, representing the difference between the allocated volume and the final position in the market. For demand response aggregators, the allocated volume consists of the volume of energy physically activated by the participating customers' load, based on a defined measurement and baseline methodology.

Article 13 in the Directive: Aggregation contract

1. Member States shall ensure that all customers are free to purchase and sell electricity services, including aggregation, other than supply, independently from their electricity supply contract and from an electricity undertaking of their choice.

2. Member States shall ensure that, where a final customer wishes to conclude an aggregation contract, the final customer is entitled to do so without the consent of the final customer's electricity undertakings.

Member States shall ensure that market participants engaged in aggregation fully inform customers of the terms and conditions of the contracts that they offer to them.

3. Member States shall ensure that final customers are entitled to receive all relevant demand response data or data on supplied and sold electricity free of charge at least once every billing period if requested by the customer.

4. Member States shall ensure that the rights referred to in paragraphs 2 and 3 are granted to final customers in a non-discriminatory manner as regards cost, effort or time. In particular, Member States shall ensure that customers are not subject to discriminatory technical and administrative requirements, procedures or charges by their supplier on the basis of whether they have a contract with a market participant engaged in aggregation.