



Quarterly report for Market Surveillance
1 October to 31 December 2012

This report gives an update on matters regarding surveillance, regulations, incidents Market Surveillance (MS) has worked on and news from MS from the fourth quarter of 2012 (Q4). Further, the report aims at increasing the understanding of how MS operates and the interpretation of the Market Conduct Rules (MCR).

Focus areas

Workshop – Market Conduct Rules

On 27 November MS arranged a workshop for members of the Customer Advisory Board of Nord Pool Spot (NPS) about the interpretation of the disclosure requirements in the MCR as well as the definition of inside information in the Regulations on wholesale energy market integrity and transparency (REMIT). The background for the meeting was that MS has received a number of questions regarding the interpretation of the MCR section 3.1 d) and REMIT Article 2 (1). The aim of the workshop was to clarify to members of NPS how to interpret the MCR and to receive input from members to be passed on to National Regulators and ACER on how to interpret REMIT.

The agenda for the workshop was:

- What is “*any information that is likely to have a significant impact on prices if made public*”?
- Publication of information regarding unavailable capacity for thermal power plants with long start and stop time

MS went in detail through the wording in the relevant article in Remit and received input on what kind of information they regarded as likely to affect prices significantly and what type of information that was important/not important for their bidding behavior. For publication of information regarding power plants with long start and stop time, MS emphasised that the two most important aspects are: 1) The information given in the message shall be clear and understandable; and 2) The information given shall not represent a breach of the MCR.

MS would like to emphasize that information relating to power stations that does not affect the available capacity on the generators directly, may also be subject to the disclosure requirements in the MCR. Such information could for example be if an incident forces a change of fuel type on a station which affects the marginal cost, or physical restrictions relating to available water at a hydro power plant which causes changes to the water values. The relevant consideration is whether the information is likely to affect prices significantly if published according to MCR 3.1 d).

Update of the Market Conduct Rules

MS is still working on updating the MCR in order to align them with the regulation as set out in REMIT. MS aims for implementing the new MCR by end of March at the latest.



Investigations and findings

During Q4 MS has initiated 32 new investigations involving written requests to members. Any breaches of the MCR are described in the sections below.

Sanctions

No sanctions have been issued in Q4.

Prohibition of insider trading - Disclosure requirements

MS has investigated possible breaches of the disclosure requirements and/or prohibition of insider trading during Q4. For the incidents below, MS has concluded that the severity of the breaches could not justify a sanction. However, the breaches of the MCR can be taken into account should there be more breaches of the MCR in the future. For all the incidents summarised below the relevant member received a statement of breach.

- On nine separate occasions members have published relevant information more than 60 minutes after the information occurred. The incidents represent breaches of the MCR section 3.5.
- Relating to changes to a planned maintenance on a production station, a member did not inform the market that the station was available to the market until more than 16 hours after the information occurred. Before the information was published, the member traded in Elbas. The incident represented a breach of the MCR section 3.5 and MCR section 2.3. The reason a sanction was not recommended, was that MS could not find that the information was likely to affect prices significantly in Elbas. This incident could potentially also represent a breach of REMIT, and MS has reported information regarding the incident to relevant authorities according to article 15 in REMIT.
- A member did not publish information regarding a planned maintenance relating to a hydro power plant. The maintenance did not affect the available capacity on the production units, but caused physical restrictions to available water and changed the power plant's water values. MS deemed that the information was likely to significantly affect prices if published according to MCR 3.1 d) and the member traded in Elspot during the relevant period. The incident represented a breach of the MCR section 3.5 and MCR section 2.3. A sanction was not recommended because of the limited market practice for publishing similar information. MS acknowledges that there has been some vagueness relating to how the MCR section 3.1 d) should be interpreted, but informed the member that similar incidents could be sanctioned in the future.
- On two separate occasions members published incorrect information to the market and subsequently correct information was published more than 60 minutes after it occurred. The incidents represented a breach of the MCR section 3.5 and MCR section 3.4.

- On two separate occasions members published a UMM containing incorrect information. The incidents represented breaches of the MCR section 3.4.
- Following a production failure at a power station, a member published wrong “Event stop” in a follow-up. As a consequence the market was misinformed for a period of time. In this period the member traded in Elbas. The incident represented a breach of the MCR section 2.3 and the MCR section 3.1 c) cf. 3.4 for not publishing correct information to the market. The reason a sanction was not recommended, was that MS did not find that the information was likely to have a significant impact on the prices on the relevant products.

Cases sent to other authorities

- A member planned a test on a production unit, but failed to take this information into account in the Elspot order and hence sold too much for a short period of time. As a consequence, the test was postponed to avoid imbalance. The incident may represent a breach of the prohibition against market manipulation set out in the MCR and may also constitute a breach of REMIT. The incident was reported to the relevant national regulator. MS will not conclude until the feedback from the regulator has been received.
- In Q4 there have been two separate incidents where erroneous Elspot capacities were submitted to Elspot by TSOs. In one incident, the maximum net transfer capacity was given by a TSO, but the capacities should have been reduced for several hours due to a planned maintenance. As a result, the maintenance was postponed. The incident has been reported to relevant authorities. Relevant information relating to the postponement of the maintenance was published more than 60 minutes after the information occurred, and the TSO received a statement of breach of the MCR section 3.5 (Included in the section above). In the other incident, the capacities given to the market by the TSO were 350 MW lower than what they should have been for several hours on one day. The incident did not represent any breaches of the MCR, but the incident was reported to the relevant national regulator.

Input from members

MS has received 14 tips from market participants in the period from 2 November to 31 December. MS appreciates all input from market participants. The tips received are described below.

- MS received a tip regarding high regulating volumes in certain Elspot areas. MS found no breaches of the MCR.
- MS received a complaint regarding the quality of information from a TSO on an interconnector between two Elspot-areas. MS found no breaches of the MCR.
- MS received a tip regarding a reduction in available capacity between two areas in Elbas. MS found no breaches of the MCR.
- MS received a complaint regarding confusing information given in an UMM. The information was clarified in a follow-up, and MS found no breaches of the MCR.
- MS received a complaint regarding updates on several UMMs published by a TSO. MS found no breaches of the MCR.



- MS received a tip regarding information relating to a nuclear power plant that was published outside the UMM-platform. There was however a UMM that already contained this information, and MS found no breaches of the MCR.
- MS received a question relating to the given capacity on an external Nordic interconnector. MS found no breaches of the MCR.
- MS received a tip regarding discrepancy between information given in UMM and actual production. MS found no breaches of the MCR.
- MS received a complaint regarding a UMM published by a TSO informing of reduction in capacities. However, there was published another UMM which contained relevant information and MS found no breaches of the MCR.
- MS received a question relating to a UMM-series containing confusing information regarding the “Event Start” of an outage on a power plant. Clarifying information was published in a “Follow up”, and MS found no breaches of the MCR.
- MS received a tip about a possible missing UMM even though there was production at a power plant. There was a UMM published. MS found no breaches of the MCR
- MS received a tip regarding a drop in production at a nuclear power plant. MS found no breaches of the MCR.
- MS received a tip concerning large Elbas volumes in one area. MS found no breaches of the MCR
- MS received several enquiries regarding poor information given in UMMs, where information had been given in the media before given via a UMM. MS found no breaches of the MCR.

Statistics

During Q4, MS initiated 32 investigations involving written requests to members. 16 statements of breach of the MCR were given in the period. The majority of these were related to the disclosure requirements. In addition, MS sent information regarding two incidents to relevant authorities. The statistics are summarised below.

Investigations from MS	1 st quarter 2012	2 nd quarter 2012	3 rd quarter 2012	4 th quarter 2012
Number of written investigations	37	29	29	32
Number of statements of breach	9	12	14	16
Number of written warnings	0	0	0	0
Number of violation charges	0	0	0	0
Number of cases sent to authorities	3	1	2	3
Number of tips received from members	4	7	8	14

Concluded breaches:	1 st quarter 2012	2 nd quarter 2012	3 rd quarter 2012	4 th quarter 2012
Disclosure requirements	9	10	14	16
Market manipulation	0	0	0	0
Insider trading	1	3	3	3

The numbers may vary slightly between the different quarterly reports