

CEER

Council of European
Energy Regulators



CEER Webinar on Dynamic Regulation

Online, 29 June 2022

Fostering energy markets,
empowering **consumers**.

Agenda

- Opening remarks
- CEER Report on Dynamic Regulation 2022
 - Nadia Horstmann, Chair of the CEER Regulatory Benchmarking Workstream
- OECD Recommendation for Agile Regulatory Governance to Harness Innovation
 - Miguel Amaral, OECD Senior Policy Analyst
- CEER Report on Regulatory Sandboxes in Incentive Regulation
 - Luca Lo Schiavo, CEER Distribution Systems Working Group
- Q&A
- Closing Remarks



Nadia Horstmann, Chair of the CEER Regulatory Benchmarking Workstream

CEER REPORT ON DYNAMIC REGULATION 2022



Background

- The CEER approach so far has been
 - ▶ CEER internal work on DR leading to a public summary and internal report (2021)
 - ▶ Platform for exchange on current projects (since 2020)
 - ▶ Paper on regulatory sandboxes in incentive regulation (DS WG published 2022)
- Now, **a second (public) report** was published in cooperation with the consultant CEPA
 - ▶ A proper assessment and evaluation of the current DR projects from an external counterpart
- **The main aim** of the report:
 - ▶ List energy DR approaches/projects in EU MS and GB/Australia;
 - ▶ Assess and compare these approaches and projects; and
 - ▶ Propose good practices and recommendations for the role of NRAs.
- **Structure of the report:**
 - ▶ Part 1: Analysis of the regulatory approaches taken by NRAs
 - ▶ Part 2: Description of the case studies from **EU countries** France, Ireland, Italy, Lithuania, Portugal and the Netherlands + Australia and GB

Definition of DR: **A regulatory approach that is limited in time, focused on the energy sector activities it covers and/or the energy sector actors who can participate, and which aims to cope with some novelty in the energy system with the ultimate goal of informing future regulatory decision-making through experimentation**



First set of recommendations

Common features that all DR initiatives must have to be successful:

- ▶ There needs to be an **enabling legal framework**.
- ▶ There needs to be **clarity on the objectives of the Dynamic Regulation initiative**.
- ▶ The **process for granting Dynamic Regulation and the approval criteria need to be well-defined**.
- ▶ NRAs must ensure that any DR initiative includes **appropriate consumer protections**.
- ▶ **Clear and extensive communication and support**.
- ▶ **Reporting, monitoring and evaluation** need to be planned from the outset.
- ▶ Sufficient **resourcing of the NRA** and participating stakeholders.



Legal
Framework



Clarity on the
objectives



Consumer
protection



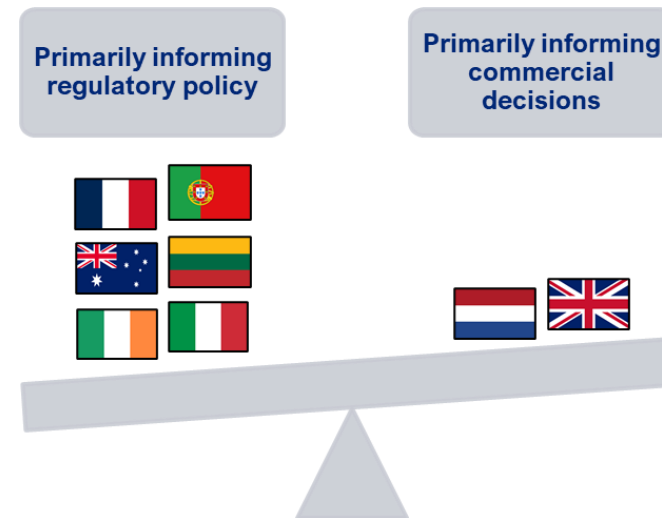
Second set of recommendations

There are many different options available for implementing Dynamic Regulation:

- ▶ **The degree of NRA involvement:** NRA as a driving force behind the initiative, facilitator of a service led by innovators or primarily an observer of DR.



- ▶ **The primary aim** is to promote innovation and inform future regulatory reforms.
- ▶ **The scope of activities:** specific vs broad energy-related activities.
- ▶ **The provision of funding** to support the innovation.
- ▶ **The type of participants involved:** TSOs/DSOs, incumbent market participants or new entrants.





Summary of case study characteristics

Country	Case study	Degree of NRA involvement	NRA's role	Scope of activities	Type of participants involved	Funding
France	Regulatory Experimentation System	NRA as facilitator	Initiates application window; Assesses eligibility of applications; Determines who is the competent authority to award a derogation; Grants derogations where it is the competent authority; Evaluates projects and identifies need for regulatory changes	Limited to access and use of networks	Any participant (e.g. energy supplier, EV charging operator), as long as project involves access or use of networks	Projects are privately funded [€]
Ireland	Strategic Innovation Fund	NRA driving the process	Created the mechanism; Determined the level of available funding; Evaluated the DSO's performance and decided on any claw-back of funding for underperformance by the DSO	Low-carbon energy projects and DSO's own innovation capabilities	The fund was only available to the DSO	€20 million each year of the regulatory period, subject to claw-back for under-delivery of innovation projects
Italy	Regulatory experiment on DSO quality of service incentive	NRA driving the process	Created the mechanism and invited applications from DSOs; Assessed DSOs' applications; Monitors participating DSOs' performance and determined rewards/penalties; Evaluates need to extend derogations granted	Regulatory experiment limited to the reliability incentive	Available to DSOs	Funding provided through electricity distribution tariffs, in the form of incentive rewards / penalties
Lithuania	Energy innovation pilot environment	NRA as facilitator	Assesses applications, including eligibility; Grants exemptions; Monitors projects that have been granted an exemption; Evaluates completed projects and identifies need for regulatory changes	Open to all activities in electricity, gas and district heating	Open to regulated network companies (DSO, TSO) and unregulated companies (retailers, innovators)	Rewards available for successful projects, such as a WACC premium for DSO/TSO projects – funded through network tariffs
Portugal	Regulations enabling pilot projects	NRA driving the process in response to stakeholder interest	Identifies the activities for which pilot projects should be permissible and amends the regulations to enable such pilots; Assesses applications; Grants derogations; Evaluates pilot projects and identifies need for regulatory changes	Specific activities such as dynamic network tariffs and participation of consumers in the reserve market	Each pilot involves different participants. Some of the participants involved in pilots to date include the TSO, suppliers and energy communities	Projects are privately funded [€]



Conclusions and lessons learnt

- When conducting this study, many DR initiatives had not yet led to **live project trials**.
- Evidence on the impact of DR is **mainly limited to**:
 - ▶ **The design,**
 - ▶ **The implementation and**
 - ▶ **The DR process, rather than directly impacting** energy consumers.

Some lessons that NRAs have learnt based on their DR experience :

- The Irish, Italian and Lithuanian cases found that where a single entity (NRA) plays the central role in enabling the DR, the main advantages observed were clarity on responsibilities and on who has the decision-making power; clarity on who innovators need to approach; ability to pursue a specific objective or agenda; and clear accountability.
- In Britain, innovators often needed relief from industry codes. Enabling sandboxes at the level of industry codes could be the next step. Sandbox was initially run for electricity only, and it is planned to extend the sandbox to gas and to more license elements to make it more accessible.
- In the Netherlands, the legislator is considering introducing an automatic exemption for small suppliers (less than 500 customers) in law. Sandbox trials have led to a different approach to network tariff reform: currently, there are two DSO-led working groups exploring a tariff reform.
- In Australia, the trial revealed several limitations on the price reviews, such as a 'blind spot' concerning service standards. This insight was used to inform changes to the rules.



Miguel Amaral

OECD RECOMMENDATION FOR AGILE REGULATORY GOVERNANCE TO HARNESS INNOVATION

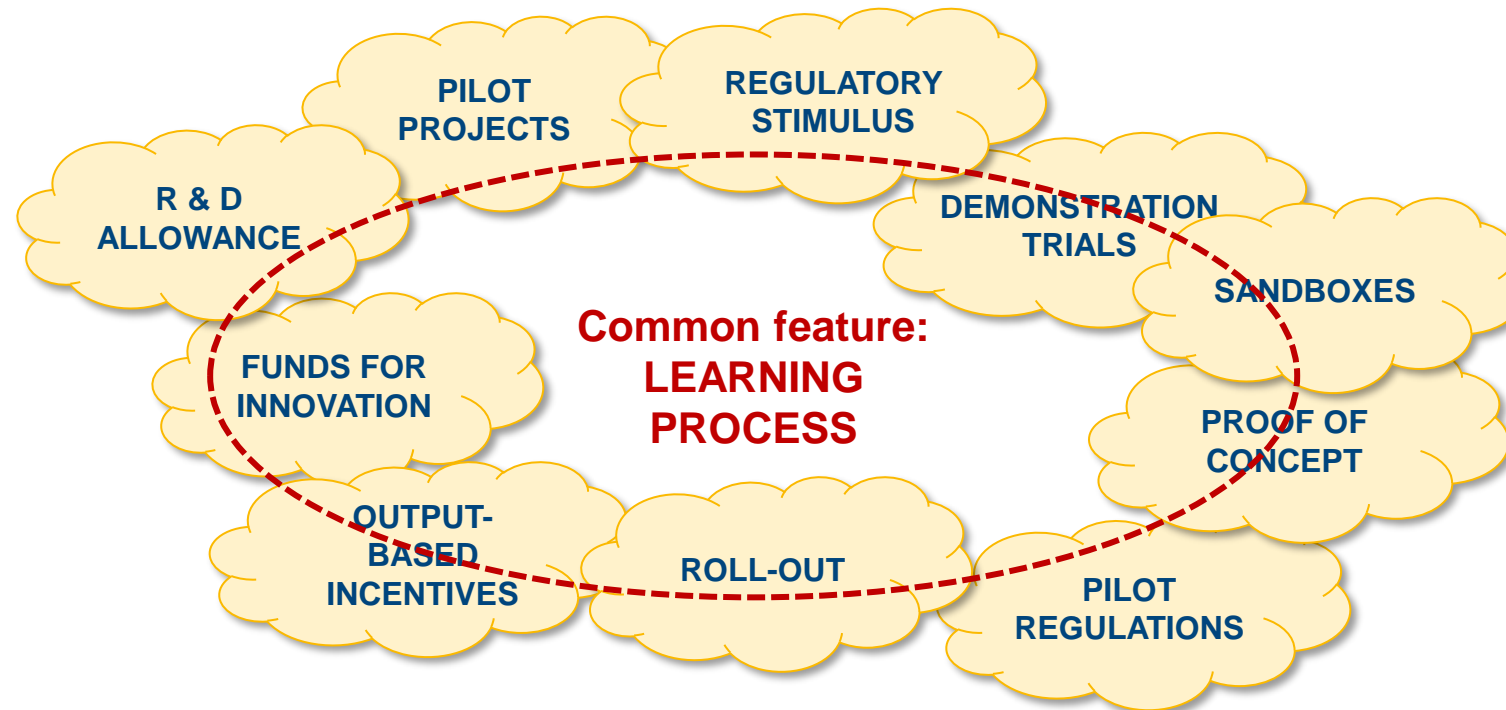


Luca Lo Schiavo, CEER Distribution Systems Working Group

CEER REPORT ON REGULATORY SANDBOXES IN INCENTIVE REGULATION



Innovation vs regulation: Different approaches implemented with varying experiences



The report's objective is to **provide clarity and guidance** by...

- ▶ proposing **recommendations** to NRAs, extracted from an improved **understanding of current approaches** across NRAs.
- ▶ including a reasoned **toolkit** to **facilitate innovation** without compromising the **effectiveness of incentives**.

Are regulatory barriers the first hindrance to innovation?

Barrier 1. Low customer engagement

Barrier 2. Innovation process halts after project completion

Barrier 3. Challenge to make public funding contribute through the whole innovation process

Barrier 4. Lack of clear, shared vision and objectives by different stakeholders on sector development

Barrier 5. Lack of sense of urgency among sector stakeholders focusing on business-as-usual

*Barrier 6. **Rigid regulatory system** hampering smart grid deployment*

Why should NRAs facilitate innovation?

- **Energy system transformation** requires a more dynamic (flexible) regulation
 - ▶ Regulatory goals of increasing economic efficiency, effectiveness and quality of service are only attained when innovations are not discouraged
- **Evolution of grid operators' role** as neutral facilitators and innovation enablers
 - ▶ Digitalisation offers opportunities for new business models that rely on network infrastructure
- **NRA's role in facilitating innovation** through regulation
 - ▶ **Facilitate “safe spaces”** for testing and demonstrating innovations
 - ▶ **Facilitate uptake** of successful innovative solutions by removing regulatory barriers
- Choice of regulatory approach affects **incentives to innovate**
 - ▶ For example, input vs output-based regulation, treatment of OPEX vs CAPEX
 - ▶ 15 NRAs have regulatory «**sandboxes**», and even more are considering their implementation

Regulatory sandboxes and related concepts

- Questionnaire results and literature show a large variety of approaches
 - ▶ Regulatory sandboxes, regulatory experiments, pilot projects, pilot regulations, derogations...
- Starting point:
 - ▶ **Sandbox as “a ‘safe space’ in which businesses can test innovative products, services, business models and delivery mechanisms without immediately incurring all the normal regulatory consequences of engaging in the activity in question.”**
- Approaches vary:
 - ▶ **Type of actors involved** (network operators, retail suppliers, aggregators, etc.)
 - ▶ **Policy or demand-driven:** is the initiative with government / NRA or with network operators or market parties
 - ▶ **Scale of implementation** of sandbox experiments or pilots allowed
 - ▶ **Process adopted** in allowing or creating a sandbox or pilot



Common “pillars” of sandbox approaches

Three common “pillars” can be discerned in the different regulatory sandbox approaches and experiments enacted by NRAs.

1. Limited duration

- ▶ The regulatory sandbox is limited in time, after which the uptake of the innovation, if successful, takes place under ‘normal’ regulation

2. Orientation on learning

- ▶ For example, transparency regarding results, dialogue with NRA, discussion with other stakeholders, evaluation

3. Derogation of regulation

- ▶ Case-by-case derogations have the risk of discrimination and level playing field distortions

Institutional considerations

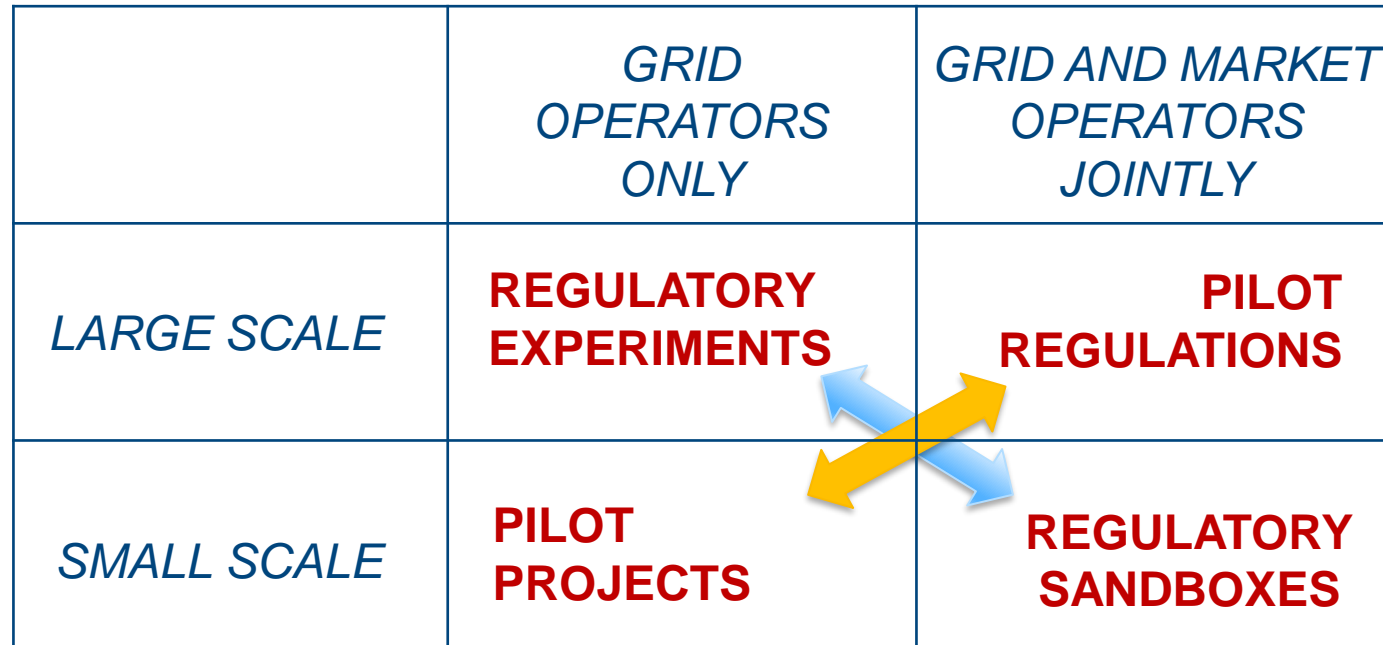
The CEER internal survey revealed a range of institutional considerations that MS or NRAs consider when implementing regulatory sandboxes.

- **Governance** of the regulatory sandbox
 - ▶ Responsibility may lie with the government, NRA or a governmental agency (or a combination of these)
- Source of **legal powers**
 - ▶ New legal or regulatory competencies may need to be created
- **Jurisdictional competences**
 - ▶ An institution can only grant derogations from legal/regulatory provisions that fall within its defined parameters of competence
- Collaboration and cooperation
 - ▶ Contributes to effective learning and uptake of successful innovations,
 - ▶ but also results in increased **complexity** of the «sandboxes».

The CEER Dynamic Regulation Innovation Toolkit

Regulatory sandboxes are but one of the multiple tools available to NRAs to support innovation.

	<i>GRID OPERATORS ONLY</i>	<i>GRID AND MARKET OPERATORS JOINTLY</i>
<i>LARGE SCALE</i>	REGULATORY EXPERIMENTS	PILOT REGULATIONS
<i>SMALL SCALE</i>	PILOT PROJECTS	REGULATORY SANDBOXES



POLICY-LED  DEMAND-LED

CASE-BY-CASE  EX-ANTE FRAME



Recommendations for NRAs

1. NRAs should **engage in removing barriers** to innovation without compromising regulatory principles
2. There is **no one-size-fits-all approach**
3. NRAs must **distinguish regulated activities from market activities**
 - ▶ NRAs should focus on regulated activities; coordination and cooperation are required when the scope of the sandbox extends to market activities
4. When granting **derogations**, NRAs must **avoid the foreclosure of competition** in wholesale, retail and adjacent markets
5. All regulatory tools for supporting innovation should **facilitate learning of all involved parties**

regulators included

Please submit your questions with your name and affiliation via the chat function.

Q&A



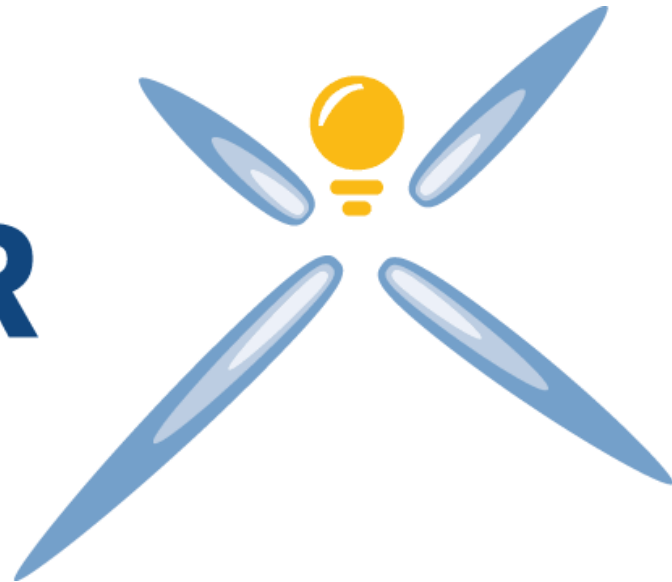
CONCLUSIONS



Thank you!

CEER

**Council of European
Energy Regulators**



www.ceer.eu