

European Commission consultation on the revision of the Capacity Allocation and Congestion Management Regulation (CACM)



EFET response – 27 April 2022

The European Federation of Energy Traders (EFET*) welcomes the opportunity to provide our comments to the European Commission consultation on the amendments to Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on Capacity Allocation and Congestion Management ('CACM Regulation').

Since the beginning of 2021, we have been actively cooperating with other market participants, EU institutions, NEMOs and TSOs on the subject. This effort includes extensive contributions to formal and informal consultations, and active participation at stakeholder meetings¹.

We noted that the new version of the CACM and SO Regulations proposed by ACER changed significantly compared to the existing Regulation. We take this opportunity to provide further input to the European Commission to support their decisions on the future of CACM.

Our priorities for CACM 2.0

Our objective is to ensure that CACM 2.0 actually fulfils its potential to push forward the integration of European wholesale power markets and promote their liquidity. We believe this can be achieved on several fronts.

On market coupling:

- improving the efficiency of continuous intraday trading as the primary tool for Single Intraday Coupling (SIDC)
- tailoring day-ahead (DA) and intraday (ID) products to the needs of all market participants without step back in terms of functionality, and ensure algorithm resilience
- consolidating transparency and consultation requirements
- securing the capacity of market participants to exercise scrutiny over market coupling operations (MCO)

On capacity calculation:

- improving transparency and processes to optimise capacity calculation
- grasping the reality of a network not bound by EU borders

On the bidding zone review:

- reinforcing the consideration of market efficiency in the bidding zone review

We elaborate further on these priorities below.

¹ [EFET response to ACER consultation on CACM review](#)

Title I - General provisions

1. While in the original CACM the market coupling was based on exchange of electricity across bidding zones, ACER proposal is based on exchanges of electricity between Nominated Electricity Market Operator (NEMO) trading hubs. ACER concludes that this would make it easier for individual NEMOs in the market to get access to market coupling as they would no longer need to agree on separate multi-NEMO arrangements (MNA) with existing NEMOs/TSOs in a bidding zone. Do you agree with this approach and the stated benefits? If not, why?

We understand this provision relates to NEMOs/TSOs physical and financial settlement. We are neutral on this proposal but we stress that this should not change the fundamentals of trading based on the zonal model.

We also invite the Commission to reflect on the importance of OTC trading within bidding zones and that any NEMOs/TSOs back-end procedures should not impact the capacity of market participants to conclude bilateral trading arrangements, within or across bidding zones.

2. **Publication of information and transparency: do you consider the new article 8 sufficient to address current transparency concerns? Would you see further aspects to tackle or data to be published?**

Publication of information (Art. 8)

We welcome the proposed addition of this article dedicated to publication of information, it is a significant improvement in terms of transparency in the CACM Regulation.

We propose to amend Article 8.3 as follows:

- Add a point in (3)(a): "capacity calculation inputs and for common grid models at least on a representative set of market time units"
- Add a point in (3)(a): "planned and ordered costly and non-costly remedial actions"
- Modify (3)(b)(iv): "aggregated bid/offer order curves with executed volumes and prices, including all executed orders (both simple and complex, including blocks), for each bidding zone"
- Modify (3)(b)(v): "aggregated information on the volume and the price of the paradoxically accepted and paradoxically rejected orders for each bidding zones"
- Add a point (3)(b)(vi): "after the orders are matched, all the blocks with their status of execution and prices, and all their characteristics".

In addition, to be more precise, we ask for the inclusion of a paragraph in Article 8 saying that: "All this information should be published in an easily accessible format agreed upon in the forum mentioned in article 5.2 for at least 5 years".

Stakeholder involvement (Article 5)

We welcome the addition of paragraph 2 but request some modifications to better represent market participants' needs and responsibilities with respect to market coupling operations. Representatives of market participants should be associated to strategic decisions related to the MCO function and to the choices that all NEMOs and TSOs might

have to make for purposes of simplification or prioritisation to preserve and improve algorithm performance.

Hence, we recommend to amend paragraph 2 of Article 5 as follows: “All NEMOs and all TSOs shall establish a permanent forum ~~to~~ involving stakeholders and market participants ~~in issues related~~ dedicated to the design, implementation, development and operation of the single day-ahead and intraday coupling ~~having direct impact on them~~. This shall not replace the stakeholder consultations in accordance with Article 6. All NEMOs and all TSOs shall duly take into account market participants views, input and needs expressed in this forum, as well as in public consultations.”

3. Do you have any other comments on Title I - General Provisions?

Yes, please see below our proposals on other topics.

Whereas

We request the addition of a Whereas on the objectives to be pursued by the MCO function with respect to market participants’ needs in the context of increasing challenges for the market coupling algorithms: “The MCO function must engage all available resources and apply solutions to meet the needs of market participants in terms of functionalities and necessary products to be accommodated in market coupling to ensure an efficient price formation. This adequacy with the needs of the market must be done to the extent that this does not limit the performance of the algorithm. Decisions on prioritisation or non-implementation of functionalities must be justified in a transparent manner and the needs and opinions of market participants must be taken into account through the establishment of a permanent forum dedicated to market coupling”.

Stakeholder involvement (Art. 5)

We welcome the proposal to establish a permanent stakeholder forum to allow market participants to weigh in on decision regarding the design, development, implementation and operation of market coupling. We propose to strengthen it further by amending Art. 5.2:

“All NEMOs and all TSOs shall establish a permanent forum to involve stakeholders and market participants ~~in issues related~~ dedicated to the implementation, development and operation of the single day-ahead and intraday coupling ~~having direct impact on them~~. This shall not replace the stakeholder consultations in accordance with Article 6. All NEMOs and all TSOs shall duly take into account market participants views, input and needs expressed in this forum, as well as in public consultations.”

Title II - Organisation of market coupling and of capacity calculation

Chapter 1 – designation of NEMOs

4. Do you consider the review of national legal monopolies proposed in article 11 a necessary/sufficient measure? Which alternatives would you see?

We profoundly regret the removal by ACER in its Recommendation of the former article 5.3 laying down the conditions to maintain monopoly NEMOs. This reinforces the capacity of Member States to keep monopoly NEMOs indefinitely, where we instead advocate their removal.

Former article 5.3 is replaced by a new Art. 11.2 stating that if the Commission deems that there be no justification for the continuation of national legal monopolies, the Commission

may consider appropriate legislative or other appropriate measures to further increase competition and trade between and within Member States. This is a much weaker provision than former article 5.3, and without a periodic monitoring and justification process at a shorter time horizon than the proposed 5 years, this new article will have limited effect.

We remind the European Commission of its own observations in the May 2018 report on NEMO competition: "Where monopolies are established, trading opportunities in terms of platforms, innovative products and close to real time trading to allow further integration of renewable sources appear to be more limited." The European Commission report did not identify any reason why 9 Member States apply the monopoly NEMO model. Without any proper justification or benefit to social welfare, the monopoly model should have been done away with in 2018. The new proposal of article 11.2 only delays to 2028 a decision that should have already been taken a decade earlier.

Chapter 2 - Market coupling governance and organisation

5. The article 13 sets that NEMOs together with TSOs shall establish a joint decision making body, taking decisions related to the management of the integrated single day ahead and intraday coupling based on the qualified majority voting rules set in article 4. Do you see any risks or inadequacies to this proposal? If so, what alternative/improvement would you suggest?

We stress that any reform of MCO governance should not delay the implementation of CACM 1.0 and should not lead to any step back in terms of MCO functionalities for market participants. Our reservations concerning a single MCO entity are as follows:

- Market coupling has operated well for the past 10 years, including 5 years as a regulated activity under CACM
- The proposed MCO single entity risks creating an additional layer of governance without guarantee of accountability towards market participants
- There is a risk of removing the leverage that market participants have on NEMOs as direct clients
- There is uncertainty as to how this proposed solution would solve the decision-making and resource problems

Should the proposed changes be implemented, we note that the deadline for implementation has been set to 5 years (2028) after the entry into force of CACM 2.0. We hope that the required changes would not jeopardise the existing processes and the CACM development/implementation projects for the coming years.

6. The article 14 provides for the establishment of a single legal entity performing the MCO tasks. In your view, what would be the challenges and conditions for a successful set-up? Do you have any suggestions to improve the current proposal (for example in terms of accountability/liability of the entity, regulatory oversight, efficient and effective decision making, etc.)?

More stakeholder involvement in the strategic decisions on the MCO function, for designing new features of the markets and when revising methodologies already used.

- 7. If no single legal entity were set up, would you have further proposals to improve the current governance framework (including current voluntary set up), and strengthen effectiveness of the decision-making process?**

The qualified majority voting among NEMOs and TSOs for all topics is welcomed to improve decision making. We understand that this is being implemented already by the NEMOs and TSOs.

- 8. Article 16 proposes a framework for a NEMO of last resort in case no NEMO is operating in a bidding zone: Would you suggest other alternatives?**

No comments.

- 9. Do you have any suggestions on how regulatory oversight can be further improved, in order to ensure a smooth and efficient development of the market coupling?**

Representatives of market participants should be associated to strategic decisions and prioritisations related to the MCO function.

Chapter 3 - MCO tasks and responsibilities

- 10. Do you agree with the proposed definition of tasks and responsibilities, and their assignment to the different entities? If not, what would you change and why?**

No comments.

- 11. Do you consider the new methodology on eligible costs of MCO and joint decision-making body will increase transparency and help to improve the current cost sharing/cost recovery process? Do you have suggestions for improvement?**

No comments.

Chapter 4 - Costs

- 12. Do you detect any risks in the current cost sharing/recovery provisions, or have any suggestions for improvement?**

We request that neither transition costs associated to this change, nor any cost associated to the MCO function should be borne by market participants. In particular, we do not agree with the proposal of ACER on the MCO fee (see Annex 4 on CACM GL reasoning): such MCO fee would be paid by NEMOs and passed through to their market participants. On the contrary, the MCO function costs should continue being recovered by network tariffs as regulated costs.

13. Do you have any other comments on Title II- Organisation of market coupling and of capacity calculation?

No comments.

Title III - Capacity calculation

Chapter 1 – General requirements

14. Do you agree with ACER's reasoning and necessity for allowing some specific bidding zone borders to be in two Capacity Calculation Regions (CCRs)? If not, why and which alternative do you propose to solve the underlying problems?

We have sympathy for this proposal in the context of advance hybrid coupling (AHC), which is to take into account the flows on the interconnectors belonging to one CCR in the flow-based allocation process of the neighbouring CCR. This can also help offshore integration.

However, the details of how this measure would be implemented, and the impact it may have on existing and future capacity calculation processes, are unclear to us. We strongly suggest a public TSO impact assessment on this matter as part of the input for the Comitology process to help the Commission and the co-legislators to make an informed decision.

Chapter 2 - Capacity calculation methodologies and Chapter 3 – Capacity calculation process

15. The Electricity Regulation 2019/943 (article 16(8)) requires that a minimum target apply to capacity calculation timeframes covered by CACM Regulation, which means day-ahead and intraday market coupling: Which solution do you propose to solve any issue related to the implementation of this target across these timeframes?

Day-ahead allocation should be the primary focus of article 16 of Regulation 2019/943 – and any replication thereof in the CACM Regulation. If any other timeframe is considered, clear reporting on what exactly is included in the calculation should be made public to avoid any double counting. According to the Regulation, the minimum 70% requirement should be met for every CNEC in every market time unit. The attainment of the minimum threshold should hence be monitored and reported on all CNECs. An additional sub-KPI could be developed to show the attainment of the minimum threshold on constraining CNECs, in order to assess to what extent noncompliance with the minimum 70% requirement effectively restricts cross-border trade.

16. In article 27 and 32, option 1 seeks to better align flow-based and coordinated NTC methodologies. ACER concludes that this would improve transparency, reporting and monitoring of 70% requirements. Do you see any risk in this approach?

We prefer option 2 keeping the existing way of representing the reliability margin (calculation of reliability margin per border for the cNTC approach, and per critical network element for the flow-based approach). We also support option 2 in order for capacity calculation to remain adapted to regional specificities.

Third countries

17. Under which conditions the flows resulting from capacity calculation and allocation with third countries could be counted within the 70% of minimum capacity of critical network elements that needs to be offered to the market? Please motivate your response: why and under which conditions?

The impact of third country flows on capacity calculation and allocation within the EU is a reality and should always be counted. Moreover, third country flows are flows induced by cross-zonal exchange and can neither be considered as reliability margin, loop flows or internal flows. Therefore, flows resulting from transactions between an EU member state and a third country should always be counted within the minimum 70% requirement, in line with Article 16 (8) of the Electricity Regulation.

We call for practical arrangements that integrate external EU borders and flows originating from trades with third countries in a cost-efficient calculation and allocation of capacity within EU regions. In the meantime, collecting data and reporting on how the minimum 70% requirement is met both with and without consideration of third countries seems an appropriate way forward.

Beyond the sole monitoring of article 16 of Regulation 2019/943, we encourage the conclusion of agreements between EU and third-country TSOs needs with respect to capacity calculation. These agreements shall enable EU TSOs and their NRAs to ensure the compliance of the third country TSO with all relevant obligations, which must be fully in line with the obligations of the EU TSOs in respect to cross-zonal capacity calculation.

The basis for such agreements needs to be legally defined and should, as a minimum, contain the following elements:

- If a CCR borders a third country, the capacity calculation methodology of this CCR needs to include a methodology to calculate capacities with third countries
- This methodology must fully comply with all relevant provisions on capacity calculation as per the CACM as well as from Regulation 2019/943, specifically Article 16(8)
- This amendment of the CCM is subject to the applicable approval processes according to EU legislation

To achieve legal certainty, we propose a clear wording and explicit provisions on those aspects to be included in the CACM 2.0.

18. How to ensure proper coordination of capacity calculation and allocation on borders with third countries and that there is no discrimination towards internal EU trade?

European electricity networks and markets are not bound by EU borders. Transactions with and flows through third countries and their transmission grids support the overall target of maximising cross-zonal exchanges, enhance the security of electricity supply and the use of renewable sources in the EU. A better inclusion of third countries in capacity calculation and allocation processes will yield positive welfare results throughout the EU and deliver benefits for consumers.

We agree with ACER's request to the European Commission on this topic, cf. Annex 4 on CACM GL reasoning points (106) and (107), and (112) on Article 16(8). Beyond political

issues, and as matter of market efficiency and operational security, we call for the definition of a dedicated framework for third countries in the framework of the CACM Regulation revision, notably regarding coordinated capacity calculation process and congestion management. More specifically, the CACM Regulation should mandate TSOs to coordinate capacity calculation, allocation and congestion management with third countries. The corresponding NRAs in the EU should be entitled to approve the requested amendments and agreements and, in case of disagreement, escalate the decision to ACER.

As a concrete proposal, we propose to add directly in Art. 26 dedicated to capacity calculation methodology the following provision:

“Each capacity calculation region considers adjacent third countries in the coordinated capacity calculation process and operational security assessment:

- Option 1: include borders with third countries in existing CCRs;
- Option 2: CCMs to consider third countries CNECs and flows stemming from third countries.”

And to modify Art. 26.2 as follows: “(b) a detailed description of the capacity calculation approach which shall include the following: [...]

- ii. rules for avoiding undue discrimination between internal and cross-zonal exchanges to comply with Article 16(8) of the Regulation 2019/943 taking into account principles set in Article 14(1) and 16(1) of the Regulation 2019/943
- iii. rules for avoiding undue discrimination of cross-zonal exchanges on different borders within the same CCR, in different CCR or with third countries”.

19. Do you have any other comments on Title III- capacity calculation?

Yes, please see below our proposals on other topics.

Capacity calculation approach (Art. 25)

We suggest further amending this article to improve transparency and processes and optimise capacity calculation, by reverting back to old wording that mentioned “efficiency”. The new wording means TSOs will only look at flows, “efficiency” meant that a comprehensive assessment (flows + market) should be performed.

In addition, we regret that market participants involvement, at least through a public consultation, is not mandatory in the assessment of the net transmission capacity approach versus flow-based approach in Article 25(2).

Therefore, we propose to amend Article 25.2 as follows: “apply the coordinated net transmission capacity approach in the concerned capacity calculation region if the TSOs are able to demonstrate that flows on each bidding zone border assigned to this capacity calculation region are not significantly impacted by exchanges on other bidding zone borders within or outside this capacity calculation region, and that the application of the capacity calculation methodology using the flow-based approach would not be more efficient compared to the coordinated net transmission capacity approach, assuming the same level of operational security in the concerned region. Prior to such request, all TSOs of a capacity calculation region shall coordinate and consult with regulatory authorities of such capacity calculation region the criteria and methodology to perform such an assessment. Market participants shall be involved in this assessment at least through a public consultation.”

Allocation constraints (Art. 29)

Since the beginning of the discussions on CACM back in 2013, we remain of the view that the concept of "Allocation Constraints" (article 29 and all articles in which the concept is used) should be removed from the CACM regulation unless strictly limited in scope. The current approach still allows TSOs large flexibility to withdraw capacity from the market well ahead of real time, with limited regulatory oversight and without coordination or consultation.

We propose by default that no allocation constraints be allowed, and that all requests for exemption should be subject to full transparency, as well as to market consultation at a regional level, based on technical justifications supported by ex-ante arguments but also factual ex-post statistical data. Alternative solutions that do not impede cross-zonal market transactions should be evaluated first by TSOs and NRAs, with the aim of precluding a presumed need for any "allocation constraints".

TSOs shall be guided by the principles of cost-effectiveness and minimisation of negative impacts on the internal market in electricity. Specifically, TSOs shall not limit interconnection capacity in order to solve congestion inside their own control area, save for reasons of operational security. If such a situation occurs, this shall be described and transparently presented by the TSOs to all system users. Such a situation shall be tolerated only until a long-term solution is found. The methodology and projects for achieving the long-term solution shall be described and transparently presented by the TSOs to all the system users.

ACER rejected our amendment to include an ex-ante notification and justification to market participants and include an ex-post public CBA on allocation constraints, for both types (a and b) of allocation constraints. We must increase transparency and justifications in the way TSOs apply and use allocation constraints on their borders. And ensure that the CBA is performed for all types of allocation constraints.

While we understand that TSOs can't know beforehand whether an allocation constraint has an impact on the market or not for a specific day or MTU, we still strongly believe that at least the ex-post analysis should be made public and not just sent to NRAs.

Therefore, we propose to the Commission to amend Art. 29.2: "Each TSO proposing to use allocation constraints pursuant to paragraph 1(a) or (b) shall justify their necessity within the common capacity calculation methodology by complementing it with a public cost-benefit analysis. Such an analysis shall prove that allocation constraints are the most economically efficient measure among all alternatives to address related operational security issues. This analysis shall be made public and repeated every three years. It shall be submitted to the regulatory authorities of the concerned capacity calculation region which shall decide whether allocation constraints can continue to apply. The cost-benefit analysis methodology shall be based on a generic European methodology validated by the Agency."

Methodology for remedial actions in capacity calculation (Art. 31)

A few CCMs (i.e. Core) already include costly remedial actions, so CACM 2.0 not mandating the consideration of costly remedial actions makes the Regulation less ambitious than the reality in certain parts of Europe. Not mandating the consideration of remedial actions in CACM 2.0 means that in certain regions, TSOs have the leeway to continue excluding costly remedial actions in their capacity calculation, or even step back from existing CCM that require that. The result would be a decrease in overall social welfare.

Therefore, we propose amending Art. 31.1 as follows:

"Each TSO within each capacity calculation region shall individually define all available remedial actions, costly and non-costly, that are expected to be available in real time and taken into account in capacity calculation to meet the objectives of this Regulation. Each TSO may exclude the following remedial actions from capacity calculation:"

Deletion of Article 64 and 65 on explicit intraday allocation

According to the existing provisions of the CACM Regulation, if explicit intraday access to cross-zonal capacity were to be removed, a specific consultation with market participants on intraday needs should be organised. The new version of CACM proposed by ACER removes the option for explicit access to cross-zonal capacity without such a specific consultation having taken place.

Explicit access in addition to implicit access allows a fully optimised utilisation of cross-border capacity, by allowing OTC deals. It provides an additional optimisation of European borders, by taking into account variations of balancing perimeters, until close to delivery. It allows instantaneous netting of the balance of European producers.

Title IV - Market coupling

Chapter 1 - Market coupling development

20. Regarding the SDAC and SIDC algorithm, do you agree that the algorithms' source codes should be published? Which benefits in particular would you see in the algorithm code publication? Which risks? Do you have any alternative proposals?

We agree that the algorithm source codes should be published. Any refusal of publication should be justified according to legislation.

21. Regarding algorithm objectives, what are your views on the possibility to introduce non-uniform pricing? Which benefits and drawbacks?

We regret the lack of visibility and stakeholder involvement on the topic of non-uniform pricing. We request a dedicated workshop together with a more informed debate. We also ask for a complete description of the design of the approach, in particular on the way side-payments would be calibrated and financed (which is not defined in any EU legislation) and a state of play of the work performed so far on this matter by the TSOs and/or NEMOs: assessment studies with the impact on algorithm performance, on market prices and levels of side-payments. Should it be introduced, we ask for the following changes regarding non-uniform pricing in the revised version of CACM:

- add the definitions of uniform and non-uniform pricing in Article 2 (Definitions)
- change the new definition of the "reference clearing price": "reference clearing price" means a single price per bidding zone determined by matching the highest accepted selling order and the lowest accepted buying order ~~and if orders are paradoxically accepted they shall be excluded from this determination~~. Indeed, the reference price has to be determined including the paradoxically accepted orders as well, if there are some. It must be the output of the algorithm and not through a second determination phase.

- change the new definition of the “side payment”: “side payment’ means a payment paid by the MCO function to a market participant for a matched order which is paradoxically accepted given the reference clearing price to ensure that it does not incur losses.”
- specify explicitly, in relation to side-payments to be financed by the MCO budget, we suggest amending Article 38 (1)(d) and (3)(d) as follows: “(d) use one of the following pricing mechanisms:
 - i. uniform pricing mechanism
 - a. allowing paradoxically rejected orders; and
 - b. not allowing paradoxically accepted orders; or
 - ii. non-uniform pricing mechanism
 - a. allowing paradoxically rejected orders; or
 - b. allowing paradoxically accepted orders; and
 - c. allowing minimal use of side payments paid by the MCO function to compensate the losses of market participants whose orders have been paradoxically accepted.”

22. Regarding the suspension of intraday continuous trading during intraday auctions, would you favour suspending all continuous trading (national and cross-zonal) or only cross-zonal continuous trading? Why? Do you have further views on the introduction of intraday auctions?

For Article 43(8), our choice is for option 2 since option 1 is too constraining for the continuous trading and we cannot accept it. Option 2 with continuous trading in local markets (without cross-border exchanges) must be implemented in all bidding zones coupled in the intraday timeframe.

We request a change in Article 43(8) to specify the maximum time for intraday auctions interruption: “In order to accommodate intraday auctions, the cross-zonal capacity allocation within the continuous trading for a given market time unit shall be suspended for a limited time period to prevent parallel cross-zonal capacity allocation in the continuous trading and intraday auctions. The objective shall be to limit this time period to no more than 10 minutes by 2025.”

Modify Article 43(9) as follows: “The timings and numbers of intraday auctions shall minimise, to the highest extent possible, the suspension of continuous trading, as referred to in paragraph 8.”.

In Article 43, add a paragraph with the following principle for the allocation of cross zonal capacity in intraday: “All available cross-zonal capacity shall be allocated by the TSOs from the intraday cross-zonal gate opening time, until the intraday cross-zonal gate closing time.”

Moreover, we have further views on the introduction of intraday auctions.

In Article 36 (General provisions in the Chapter Market coupling development) paragraph 1(b), we ask for the following modification: “single intraday coupling for the intraday timeframe, consisting of:

- i. intraday continuous trading,
- ii. which may be complemented by intraday auctions, with no more than three auctions per day at 3 p.m. DA, 10 p.m. DA and 10 a.m. ID”.

Either in Article 36 or in Article 60 (Biennial report on market coupling), add the obligation for a regular review/assessment of the implementation of intraday auctions. Such a review should analyse the effects of IDAs in terms of efficiency, cross-zonal capacity allocated, and impact on the liquidity of the continuous SIDC. The assessment should result in the publication of an annual report based on relevant indicators to demonstrate improvements in congestion management and capacity allocation; as well as to challenge the number of auctions.

We propose the addition in Article 36: "2. The Agency shall publish an annual monitoring report assessing the implementation and impact of intraday auctions. Such a report shall analyse the effects of IDAs in terms of efficiency, cross-zonal capacity allocated, and impact on the liquidity of the continuous SIDC. The assessment shall result in the publication of a report based on relevant indicators to demonstrate improvements in congestion management and capacity allocation. It shall include an analysis of the optimal number of auctions. Based on this monitoring report, the Agency may decide to reduce the number of intraday auctions or revise the timings of intraday auctions."

23. Would you find it useful to centralize clearing and settlement between NEMO trading hubs (even if there is no single legal entity) and why/why not? (Please note that this refers to clearing and settlement between NEMOs or NEMOs and MCO and not to clearing and settlement between NEMOs and its clients).

No comments.

24. Do you have any other comments on Title IV- market coupling?

Yes, please see below our proposals on other topics.

Whereas 8

Change Whereas (8) as follows: "8. [...] Single day-ahead and intraday coupling ensures that electricity flows from low- price to high- price areas and should be designed in a manner that allows for its application or extension across the entire Union, for the mandatory accommodation of existing, both simple and complex, products, including blocks, when traded in a sufficient number of Members States and for the development of future new product types."

Algorithm objectives (Art. 38): other provisions

In Article 38, we welcome the addition of key principles for day-ahead auctions, continuous intraday trading and intraday auctions algorithms but we request more ambitious provisions.

- We are very concerned of possible steps back on functionalities and services of the algorithms, especially regarding products used in a significant number of Member States (at least three, see below) and available to all market participants. The priority should be to keep an efficient pricing and trading of the products/assets in the European target model, providing thus an efficient day-ahead and intraday market price formation across bidding zones. In the self-dispatch model widely used in Europe, optimisation under the portfolio-based approach gives flexibility to market participants and is complemented by the use of complex products such as linked, exclusive and loop block products to

provide a good representation of the assets. Their accommodation should be mandatory in the future. For the sake of overall efficiency and level-playing field, current national rules should be reviewed to replace less used products like MIC or PUN orders by complex block orders which are commonly used across Europe and available to all market participants.

We ask for the following changes in Article 38:

- keep the initial formulation for algorithm objectives: “The algorithm shall reach have the objective of an optimum solution in terms of maximisation of ~~to maximize~~ the economic surplus (...)”
- change the scalability principle in (1)(c)(ii) for SDAC, (2)(d)(ii) for continuous trading and (3)(c)(ii) for intraday auctions:
“respect the [principle of] scalability, meaning that [the algorithms are] able to accommodate all existing and future legally binding requirements while its performance in normal operation is not endangered taking into account all available solutions for improving algorithm performance and/or increasing time dedicated to algorithm runs. Among those requirements, the ability to accommodate any functionality or service when it is used in at least three Member States should be respected.”. Indeed, one can either expect better computational resources in the future and/or think about an extension of the time dedicated to the algorithm runs.
- introduce an additional principle of adequacy with market needs for the three algorithms in Article 38:
“adequacy with market needs, meaning that the new releases of [the algorithms are] able to keep accommodating any functionality or service when it is used in at least three Member States.”

Day-ahead and intraday products accommodated by coupling algorithms (Art. 39)

We welcome the update of the article dedicated to the day-ahead and intraday products to be accommodated by the SDAC, continuous intraday trading and intraday auction algorithms (Article 39). However, we believe that the provisions of Article 39(1) are not sufficient and should be improved/complemented.

We request the following amendments to Article 39(1): “The day-ahead and intraday products that can be accommodated by the algorithms shall:

- (a) include at least the products covering one market time unit and multiple market time units; and
- (b) cover the needs of market participants to the extent that it does not limit the algorithm performance ~~ensures proper functioning of the algorithms ; and~~
- (c) include any simple or complex product, including blocks, when it is traded in at least three Member States”.

Title V - Bidding zone review process

25. In addition, further clarification could be provided on the process when one Member State intends to review its internal bidding zones or establish a new bidding zone to improve locational price signals. Do you agree and what are the most important considerations in these cases?

We agree. Further details should be developed on the fast-track process to split or merge bidding zones within one country and how it impacts neighbouring bidding

zones. This should be assessed before the comitology process. Coordination among the involved NRAs could be strengthened. As for any bidding zone reconfiguration, it is important to look at the impact of such internal reconfiguration, in addition to the impact on networks and market efficiency.

26. In order to reach the decarbonisation targets, a significant rollout of offshore renewable energy is expected, and the TEN-E Regulation sets out the process for developing integrated offshore network development plans for each sea-basin. Do you agree that these plans should be used as a basis for establishing or reviewing offshore bidding zones, instead of doing so on an ad-hoc basis as projects are developed? If not, why not and what alternatives do you propose?

We notice some elements are missing from the bidding zone review provisions to make it future proof for offshore renewable energy and the growing trend for power purchase agreements (PPAs). A bidding zone review can be a termination clause for a PPA. We agree that the TEN-E Regulation should be part of the bidding zone review process. In order to accommodate the growing amount of renewables that are contracted with merchant risk in the long term (5+ years), the bidding zone review cannot be based on a 3-year timeframe even if this is a requirement of the Electricity Regulation. Ensuring a long-term perspective for bidding zone delineation will decrease the cost of the energy transition instead of relying solely on subsidies.

Therefore, we propose to amend Art. 59.4 “A bidding zone review in accordance with Article 58 shall include scenario(s) which take due account of tangible progress on infrastructure development projects that are expected to be realised within the ~~three~~ ten years starting from the year following the year in which the decision to launch the review was taken.

27. Do you have any other comments on Title V- Bidding zone review process?

We welcome greater alignments with CEP provisions regarding the decision-making process (Art. 58).

Title VI - Reporting and implementation monitoring

28. In article 62 detailing the regular reporting on current bidding zone configuration by ENTSO-E, it is envisaged to introduce an objective criterion for reporting purposes. Do you agree with the proposal to define a threshold for frequency of occurrence when reporting on structural congestion, to ensure consistency in reporting among Member States? If not, why and which alternative do you propose?

In Article 62 (Regular reporting on current bidding zone configuration by ENTSO for Electricity), we do not agree with the option to add “For the purpose of this report, a frequency of occurrence of at least two percent shall be used.” when talking about congestions that occur with significant frequency.

We recognise that a threshold might be useful to define a structural congestion. However, we believe that the CACM Regulation is not the right place to determine the level of this threshold. In case a threshold is to be defined, a detailed methodology should be developed and made public to assess the adequate level of the threshold.

The ACER reasoning seems based on the fact that some bidding zones have structural internal (commercial) congestions, but such frequent congestions occur due to very different physical congestions on network elements, which themselves could be infrequent. This appears to us insufficient to justify a predetermined 2% threshold in the Regulation. At this stage, we think it is more cautious to keep some latitude to determine this threshold in the framework of a subsequent methodology, to be developed.

29. Do you have any other comments on Title VI- Reporting and implementation monitoring?

No comments.

Provisions moved to Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation (SOGL)

30. The new article 76 “Proposal for regional operational security coordination” envisages two options for sharing of costs of remedial actions, one simply referring to article 16(13) of the Electricity Regulation, the other providing more detail in its interpretation. Which option do you favour and why?

We note that the existing Art. 35 of the CACM Regulation on coordinated redispatching and countertrading was not even tackled by the ACER consultation of June 2021, and that some of the provisions of that article have moved to Art. 76 in SO GL in the final ACER recommendation. We do not agree to deleting completely the mention of redispatch and countertrading from CACM, while the Electricity Regulation calls for market-based congestion management.

We propose at least to add a Whereas in CACM introducing coordinated redispatching and countertrading, with the proper cross-referencing to SO GL and explicitly mentioning that:

- remedial actions have to be optimised and determined according to the provisions for regional operational security coordination pursuant to Articles 75-78 of SO GL;
- the use of redispatching and countertrading resources shall take into account their impact on operational security and economic efficiency.

In addition, we propose to introduce point 4. of CACM 1.0 Article 35 directly in Article 76 of SO GL as follows:

“2. Regional operational security coordination shall be able to modify any cross-border relevant remedial actions resulting from previous coordinated or uncoordinated use of cross-border relevant remedial actions, except those which have already been ordered.

3. Each TSO shall be able to redispatch or modify the settings of all resources not owned by TSOs that are impacted by the remedial actions identified according to paragraph 1(b)(iv) in accordance with the appropriate mechanisms and agreements applicable to its control area, including interconnectors. The relevant resource owners shall provide TSOs ex ante all the information necessary for deciding on whether their resources can and/or need to be committed. This information shall be shared on request between the relevant TSOs for regional operational security coordination purposes only.

4. Each TSO shall abstain from unilateral or uncoordinated redispatching and countertrading measures of cross-border relevance. Each TSO shall coordinate the

use of redispatching and countertrading resources taking into account their impact on operational security and economic efficiency.”