

**Response to ENTSOE public consultation**

**On**

**Network Code on Capacity Allocation and Congestion Management for**

**Electricity**

**23 May 2012**

**EUROPEX**

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# I. Introduction

1. EUROPEX welcomes the consultation by ENTSOE on Capacity Allocation and Congestion Management for Electricity (CACM), according to the Third Energy Package, which follows the previous consultations of Draft Framework Guidelines by ERGEG, of November 2010 and the respective initial impact assessment, and consultation by ACER, of June 2011 on the same topic.
2. It is our understanding that the CACM Network Code should not aim at putting obligations/requirements on the Power Exchanges. If obligations must be put on Power Exchanges then they should be only in their role of performing the Market Coupling Operator function.
3. In addition, The Network Code is not the proper document to define functions and to designate entities to perform them, as this is the precise objective of the Governance Guideline.
4. Overlap of the CACM Network Code with the Governance Guidelines is not acceptable and should be avoided. Including articles in the Network Code that overlap with issues of the Governance Guideline and making sure that the texts are compatible is not an acceptable solution, since it will complicate, not only the approval process of both documents, but the future evolution of them.

## II Responses to consultation questionnaire

Whereas number	Whereas text	Comment	Change Proposal
3	<i>ENTSO-E has drafted this Network Code on Capacity Allocation and Congestion Management aiming at setting out clear and objective requirements for TSOs, Power Exchanges and Market Participants in order to contribute to non-discrimination, effective competition and the efficient functioning of the internal electricity market.</i>	The CACM Network Code should not aim at putting obligations/requirements on the Power Exchanges. If obligations must be put on Power Exchanges, it should be only in their role of performing the Market Coupling Operator function.	<i>ENTSO-E has drafted this Network Code on Capacity Allocation and Congestion Management aiming at setting out clear and objective requirements for TSOs, <del>Power Exchanges</del> and Market Participants in order to contribute to non-discrimination, effective competition and the efficient functioning of the internal electricity market.</i>
8	<i>Force Majeure shall refer to sudden unforeseen conditions and/or events and/or circumstances which, or the results of which, are beyond the reasonable control of System Operators and which cannot be prevented or overcome with reasonable foresight and diligence and which in the professional assessment of System Operators put under risk the security of supply, provision or transmission of electricity, or the technical safety of a given Control Area(s)/Control Block(s) or its significant part and which cannot be solved by measures which are from a technical, financial and/or economic point of view reasonably possible for System Operators.</i>	The Force Majeure concept is also used in Article 42 (3) when addressing obligations of the Market Coupling Operator. The definition should reflect this and to be extended accordingly.	<i>Force Majeure shall refer to sudden unforeseen conditions and/or events and/or circumstances which, or the results of which, are beyond the reasonable control of System Operators <b>or of Market Coupling Operator</b> and which cannot be prevented or overcome with reasonable foresight and diligence and which in the professional assessment of System Operators put under risk the security of supply, provision or transmission of electricity, or the technical safety of a given Control Area(s)/Control Block(s) or its significant part and which cannot be solved by measures which are from a technical, financial and/or economic point of view reasonably possible for System Operators.</i>

Whereas number	Whereas text	Comment	Change Proposal
11	<i>Costs of establishing processes to operate Day Ahead and Intraday electricity markets and to calculate capacity, where efficiently incurred by TSOs, shall be recoverable.</i>	The costs efficiently incurred by the Power Exchanges in this context should also be recoverable.	<i>Costs of establishing processes to operate Day Ahead and Intraday electricity markets and to calculate capacity, where efficiently incurred by TSOs or <b>Power Exchanges</b>, shall be recoverable.</i>
35	<i>Consultation on the original design and subsequent amendments to the price coupling algorithm requires close cooperation between Power Exchanges and TSOs will benefit from consultation with Market Participants and should be subject to regulatory approval.</i>	In order to meet the 2014 target, it is likely that the price coupling algorithm will be validated prior to the entry into force of the Network Code in which case the validation process should not be described here. Only significant amendments (e.g. excluding bug fixes) require close cooperation with TSOs, benefit from Consultation with Market Participants and should be subject to regulatory approval.	<del><i>Consultation on the original design and subsequent</i></del> <b>Any significant</b> amendments to the price coupling algorithm requires close cooperation between Power Exchanges and TSOs will benefit from consultation with Market Participants and should be subject to regulatory approval. <b>This will also apply to the original design of the price coupling algorithm to the extent it has not been already been validated prior to the entry into force of the Network Code.</b>
41	<i>A single gate closure time for European Day Ahead Electricity markets is required in order (...)</i>	Only for the auctions necessary for market coupling a single gate closure should be introduced. Additional auctions can still have a different gate closure.	<i>A single gate closure time for <b>coupled</b> European Day Ahead Electricity market <b>actions</b> is required in order.....</i>

Whereas number	Whereas text	Comment	Change Proposal
47	<p>The objective of the pan-European Intraday solution is to enable Market Participants to continuously trade energy as close to real-time as possible in order to, inter alia, adjust their balances or optimise their trading positions.</p>	<p>In the Framework guideline there are two concepts:  - the objective of Intraday Market in General: <b>The key feature of the intraday market is to enable market participants to trade energy as close to real-time as possible in order to re-balance their position. Intraday trading is particularly important to accommodate intermittent generation and unexpected events such as outages.</b>  - and the objective of the Network Code: <b>The CACM Network Code(s) shall set out all necessary provisions for the implementation of the pan-European intraday target model supporting continuous implicit trading, with reliable pricing of intraday transmission capacity reflecting congestion (i.e. in case of scarce capacity)</b>  Whereas 47 mixes both concepts, to read that the objective of the Pan-European solution is to enable participants to continuously trade energy as close to real-time as possible, when is not what the Framework Guideline indicates. This mix of the concepts is especially harmful for the Markets where there will be a combination of Pan-European Continuous trading and Intraday Implicit auctions</p>	<p>The objective of the <del>pan-European Intraday Markets solution</del> is to enable Market Participants to <del>continuously</del> trade energy as close to real-time as possible in order to, inter alia, adjust their balances or optimise their trading positions. <b>The objective of the pan-European intraday target model supporting continuous implicit trading, with reliable pricing of intraday transmission capacity reflecting congestion (i.e. in case of scarce capacity) is the Intraday implicit allocation of capacity</b></p>

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48	<i>An efficiently functioning pan-European Intraday market can reduce risk for Market Participants, in particular generators with variable output profiles such as renewables.</i>	<p>The concept of the Framework Guideline is that an efficient Intraday Market can reduce risk for Market Participants, in particular generators with variable output profiles such as renewables.</p> <p>By mixing again, like in whereas 47, the Objective of the Intraday Market in general and the objective of the Pan-European Intraday Market, the reason for Intraday Implicit auctions existence, to complement the Pan-European Continuous Implicit allocation of capacity is not recognized.</p>	<i>An efficiently functioning <del>pan-European</del> Intraday market can reduce risk for Market Participants, in particular generators with variable output profiles such as renewables.</i>
52	<i>The Continuous Trading Matching Algorithm is part of the Shared Order Book and shall perform the Matching of Orders on a continuous basis.</i>	The (undefined) concept of a Shared Order Book including the matching Algorithm in extremely confusing for anybody not having been involved in the discussions on the intraday enduring solution from start.	<i>[Add a definition of the SOB and the CMM]</i>
54	<i>Capacity shall be reliably priced reflecting Market Congestion</i>	Only if requested by NRAs. If Capacity Pricing is necessary, it could also reflect other Network Constraints (e.g. losses on DC cables, etc.)	<i>Capacity shall be reliably priced reflecting <del>Market Congestion</del> market situation and Network Constraint, subject to the request and approval of the relevant NRAs</i>

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55	<i>The pan-European Intraday Solution shall be composed...</i>	<p>The Pan-European Intraday trading Solution concept in general is not in the Framework Guideline. The concept that is in the framework Guideline is the Pan-European intraday target model supporting continuous implicit trading, with reliable pricing of intraday transmission capacity reflecting congestion (i.e. in case of scarce capacity)</p> <p>Generalizing the concept of Intraday Trading to only the pan-European Continuous Implicit Intraday Solution, implies that the Implicit auctions are not part of Intraday Trading, as requested by the Framework Guidelines</p>	<i>The pan-European <b>Continuous Implicit</b> Intraday Solution shall be composed...</i>
56	<i>Transitional solutions shall allow explicit auctions to be used to allocate Intraday capacity via the Capacity Management Module for a limited period of time.</i>	<p>There is a specific NRAs approval for this indicated in the Framework Guideline:  <b>Direct explicit access to the capacity will also be allowed, subject to the approval by the relevant NRAs and the conditions defined further below.</b>  <i>This approval is missed in the Whereas.</i></p>	<i>Transitional solutions shall allow explicit auctions to be used to allocate Intraday capacity via the Capacity Management Module for a limited period of time, <b>subject to the approval by the relevant NRAs and the conditions defined.</b></i>

Whereas number	Whereas text	Comment	Change Proposal
58	<p><i>The task of Shipping Agent shall be a service provided to the Power Exchanges by Transmission System Operators for facilitating Cross Zonal exchanges.</i></p>	<p>This task can be provided by National legislation, not necessary as the service</p>	<p><i>The task of Shipping Agent shall be a service <b>or directly regulated activity</b> provided to the Power Exchanges by Transmission System Operators for facilitating Cross Zonal exchanges.</i></p>



Article number	Article text	Comment	Change Proposal
<p><b>Art.1 -</b> Subject matter and scope</p>	<p><i>3. For the sake of clarity, the functions in Article 6, 39 and 58 may also be used in this Network Code to designate the entity in charge of the concerned function.</i></p>	<p>The Network Code is not the proper document to define functions and to designate entities to perform them, as this is the precise objective of the Governance Guideline.</p> <p>By including this article in the Network Codes, a non-acceptable overlap is created with the Governance Guideline. Correcting this will imply a significant rewriting of the Network Code, since it has many articles that overlap the Governance Guideline.</p> <p>The solution to include articles in the Network Code that overlap with issues of the Governance Guideline and making sure that the texts are compatible is not an acceptable solution, since it will complicate, not only the approval process of both documents, but the future evolution of them.</p>	<p><b><i>Eliminate all articles in the Network Codes that deal with establishing functions and designating entities to perform them</i></b></p>
<p>Art. 2 - Definitions</p>	<p><b><i>Central Counter Party - the function of entering into contracts with Market Parties, by novation of the contracts resulting from the Matching process and of organizing the transfer of Net Positions resulting from Capacity Allocation with other Central Counter Parties or Shipping Agents;</i></b></p>	<p>It is a PX function or of the entity designated by PX. To be in line with governance guidelines draft</p>	<p><b><i>Central Counter Party - the function of entering into contracts with Market Parties, by novation of the contracts resulting from the Matching process and of organizing the transfer of Net Positions resulting from Capacity Allocation with other Central Counter Parties or Shipping Agents. This function is assumed by relevant PX or entity designated by that PX.</i></b></p>

Article number	Article text	Comment	Change Proposal
Art. 2 - Definitions	<b>Countertrading</b> - a Cross Zonal exchange initiated by System Operators between two Bidding Zones to relieve congestion	Countertrading could also be performed within a zone	<b>Cross-Zonal Countertrading</b> - a Cross-zonal exchange initiated by System Operators between two Bidding Zones to relieve congestion
Art. 2 - Definitions	<b>Market Coupling Operator</b> - the function that Matches Orders for all Bidding Zones, taking into account Network Constraints and Cross Zonal Capacities and thereby implicitly allocating capacity for the Day Ahead and Intraday timeframes;	The use of these capitalised terms through the major part of the document is inconsistent. It does not make sense to impose tasks to a function (e.g. drafting sending report, submit proposals, etc.). The function should be designated by the terms Market Coupling Operations, the Market Coupling Operator being <u>an entity</u> performing the Market Coupling Operations.	[Add a definition for Market Coupling Operations and check consistency of the use of these terms through the whole document. The option to have several Market Coupling Operators should then be foreseen.]
Art. 2 - Definitions	<b>Market Operator</b> - the function that collects and delivers Orders;	Matching the orders is a core function of a Market Operator. A market Operator is not only a bid collector as indicated in the definition. Power Exchange shall be responsible for the function of Market Operator. As for the definition of Market Coupling Operator, the Market Operator should be the entity performing Market Operations.	<b>Market Operator</b> - the function assumed by PXs that collects and delivers Orders and matches them to produce Market prices; [If required, add a definition for Market Operations and check consistency of the use of these terms through the whole document.]

Article number	Article text	Comment	Change Proposal
Art. 2 Definitions	<b>Market Participant</b> - an entity authorized by a Market Operator to submit Orders. For the sake of clarity, TSOs and PXs and their designated entity(ies) can be considered Market Participants while respecting the applicable Regulation;	Under no circumstance would a PX be a Market Participant, as it organizes the market	<b>Market Participant</b> - an entity authorized by a Market Operator to submit Orders. For the sake of clarity, <del>TSOs and PXs</del> and their designated entity(ies) can be considered Market Participants while respecting the applicable Regulation;
Art. 2 Definitions	<b>Order</b> - an intention to purchase or sell energy expressed by a Market Participant through a market platform subject to a certain number of execution conditions as determined by the rules governing	Market platform is too vague and undefined, should rather be Market Operator.	<b>Order</b> - an intention to purchase or sell energy expressed by a Market Participant through a <del>market platform</del> <b>Market Operator</b> subject to a certain number of execution conditions as determined by the rules governing
<b>Art. 2</b> - Definitions	<b>Scheduled Exchange</b> - the energy transfer scheduled between Bidding Zones either as a result of Market Coupling Process or as a result of Intraday Continuous Matching, expressed in MWh for each Market Time Period and for a given direction;	Energy transfer schedule can be expressed in full MWh or tenth of MWh, depending on the applicable cross-border scheduling rules, <b>as those TSOs rules are not harmonized today.</b>	<b>Scheduled Exchange</b> - the energy transfer scheduled between Bidding Zones either as a result of Market Coupling Process or as a result of Intraday Continuous Matching, expressed in <del>MWh</del> for each Market Time Period and for a given direction;
<b>Art. 2</b> - Definitions		Definition of Power Exchange shall be included for consistency	<b>Power Exchange</b> - an entity operating day-ahead spot market and/or intra-day market.

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<p><b>Art.9 -</b> Determination of capacity calculation regions</p>	<p><i>No later than 12 months after the entry into force of this Network Code, all System Operators shall make a common proposal to all National Regulatory Authorities regarding the definition of the Capacity Calculation Regions within which coordinated capacity calculation shall be performed.</i></p>	<p>Network Code should be more specific about definition of the Capacity Calculation Regions, at least in the proposed "deadline". Either the definition shall be already included in the NC or System Operators shall make such proposal faster. In view of the remaining part of the Article, in worst case it can take 19 months before Capacity Calculation Regions will be established. Not consistent with other deadlines in NC. (Article 24 and deadline for requirements in Article 44) it will be difficult to provide requirements for the development of the Price Coupling Algorithm without having Capacity Calculation Methodology.</p>	<p><i>No later than <del>12</del> <b>3 months</b> after the entry into force of this Network Code, all System Operators shall make a common proposal to all National Regulatory Authorities regarding the definition of the Capacity Calculation Regions within which coordinated capacity calculation shall be performed.</i></p>
<p><b>Art.9 -</b> Determination of capacity calculation regions</p>	<p><i>Within 4 months of receiving a proposal compliant with the requirements of paragraph 2, National Regulatory Authorities shall accept or reject the proposal.</i></p>	<p>No path for next steps in case of rejection</p>	<p><b>To be added:</b></p> <p><b><i>In the event that National Regulatory Authorities reject the proposal they shall provide grounds for their decision. Within 4 months of a rejection from the National Regulatory Authority, System Operators shall resubmit a proposal to National Regulatory Authorities.</i></b></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art. 11</b> - Methodology to determine required inputs</p>	<p><i>As soon as reasonably practicable and no later than 12 months after the entry into force of this Network Code, each System Operator shall produce a single methodology, consistent with the Capacity Calculation Methodology established pursuant to Article 24 and based on the objectives in Article 7, outlining the process to be followed in determining results to be used in the Capacity Calculation.</i></p>	<p>Network Code should be more specific about definition of such single methodology, at least in the proposed "deadline". Either the methodology shall be already included in the NC or System Operators shall make such proposal faster. In view of the remaining part of the Article, in worst case it can take 19 months before Capacity Calculation Regions will be established. Not consistent with other deadlines in NC. (Article 24 and deadline for requirements in Article 44) it will be difficult to provide requirements for the development of the Price Coupling Algorithm without having Capacity Calculation Methodology.</p>	<p><i>As soon as reasonably practicable and no later than <del>12</del><b>3 months</b> after the entry into force of this Network Code, each System Operator shall produce a single methodology, consistent with the Capacity Calculation Methodology established pursuant to Article 24 and based on the objectives in Article 7, outlining the process to be followed in determining results to be used in the Capacity Calculation.</i></p>
<p><b>Art. 14</b> - The size of the reliability margin</p>	<p><i>Each System Operator shall define Reliability Margins for each Critical Branch or for each Bidding Zone Border for each Capacity Calculation Timeframe based on the methodology specified in Article 13.</i></p>	<p>What will happen if for one Bidding Zone Border, two different Reliability Margins from two respective System Operators on that border will be defined?</p>	<p><i>Each System Operator shall define Reliability Margins for each Critical Branch or for each Bidding Zone Border for each Capacity Calculation Timeframe based on the methodology specified in Article 13.</i>  <b><i>Reliability Margins for each Bidding Zone Border shall be defined jointly by all System Operators, having such Bidding Zone Border in their Bidding Zone.</i></b></p>

Article number	Article text	Comment	Change Proposal
<b>Art.16</b> - Individual grid model data	<i>All National Regulatory Authorities shall approve or reject the proposal submitted by all System Operators within 3 months of the date of receipt.</i>	No path for next steps in case of rejection	<b>To be added:</b>  <b><i>In the event that National Regulatory Authorities reject the proposal they shall provide grounds for their decision. Within 4 months of a rejection from the National Regulatory Authorities, System Operators shall resubmit a proposal to National Regulatory Authorities.</i></b>
<b>Art.20</b> - Individual grid model	<i>5. All System Operators of each Bidding Zone shall provide Individual Grid Models which respect the Net Position rules defined in paragraph 1.</i>	The reference to the "Net Position rules defined in paragraph 1" is unclear.	<i>[Clarify the wording of article 20 (5)]</i>
<b>Art. 24</b> - The capacity calculation methodology	<i>As soon as reasonably practicable and no later than 12 months after the entry into force of this Network Code, all System Operators of each Capacity Calculation Region shall produce a common methodology for Capacity Calculation. This methodology shall meet the objectives specified in Article 7.</i>	Not consistent with other deadlines in NC. (Article 24 and deadline for requirements in Article 44) it will be difficult to provide requirements for the development of the Price Coupling Algorithm without having Capacity Calculation Methodology.	<i>As soon as reasonably practicable and no later than <del>12</del> <b>6 months</b> after the entry into force of this Network Code, all System Operators of each Capacity Calculation Region shall produce a common methodology for Capacity Calculation. This methodology shall meet the objectives specified in Article 7.</i>

Article number	Article text	Comment	Change Proposal
<b>Art.32</b> - Biennial report on capacity calculation	<i>1. No later than 2 years from the date at which this Regulation enters into force and every 2 years thereafter, prior to the end of June, all System Operators shall prepare and send to the Agency and all National Regulatory Authorities a report on the Capacity Calculation, if requested by the Agency.</i>	If the Regulation referred to in this article means the CACM Network Code, the terms "this Network Code" should be preferred. If not, please clarify.	<i>1. No later than 2 years from the date at which this <del>Regulation</del> <b>Network Code</b> enters into force and every 2 years thereafter, prior to the end of June, all System Operators shall prepare and send to the Agency and all National Regulatory Authorities a report on the Capacity Calculation, if requested by the Agency.</i>
<b>Art. 33</b> - Determination of bidding zones	<i>Bidding Zones shall be defined in a manner which: (a) promotes efficient congestion management and secure network operation within and between Bidding Zones; (b) enhances Social Welfare; (c) reflects structural congestion in the European network; (d) adequately takes into account adverse effects of internal transactions on other Bidding Zones; (e) is consistent for all Capacity Calculation Timeframes; and (f) ensures that each generation and load unit shall belong to only one Bidding Zone for each Market Time Period.</i>	Objectives a) and c) seem quite similar: to which extent are they complementary?  Is objective b) considered as equivalent as enhancing market efficiency? These two objectives cannot be as equivalent, since formation of a fair price for energy relies on market liquidity.  Generation and load units are not necessary linked on every market to a specific Bidding Area. Market participants send orders based on portfolio strategies.	<i>Bidding Zones shall be defined in a manner which: (a) promotes efficient congestion management and secure network operation within and between Bidding Zones; (b) enhances Social Welfare; (c) reflects structural congestion in the European network; (d) adequately takes into account adverse effects of internal transactions on other Bidding Zones; (e) is consistent for all Capacity Calculation Timeframes; and (f) <b>If applicable</b>, ensures that each generation and load unit shall belong to only one Bidding Zone for each Market Time Period. <b>(g) Ensures market liquidity and consequently a fair price for energy</b></i>



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Art.35 - Biannual reports on current bidding zones	<i>The efficiency of current European Bidding Zones shall be assessed every two years. Two assessment reports shall be produced: (a) a technical analysis shall be prepared by all System Operators; and (b) a market efficiency analysis shall be prepared by all National Regulatory Authorities in coordination with System Operators, Market Operators, the Market Coupling Operator and other Market Participants.</i>	Biannual assessments of the Bidding Zones configuration, with possible subsequent Bidding Zones reconfiguration, seem too frequent to ensure that the Zones are "sufficiently stable and robust over time", as required in Article 34.	<i>The efficiency of current European Bidding Zones shall be assessed every <del>two</del>four years. Two assessment reports shall be produced: (a) a technical analysis shall be prepared by all System Operators; and (b) a market efficiency analysis shall be prepared by all National Regulatory Authorities in coordination with System Operators, Market Operators, the Market Coupling Operator and other Market Participants.</i>
Art.35 - Biannual reports on current bidding zones	<i>4. Based on the first biennial technical analysis and their own market efficiency analysis, National Regulatory Authorities shall either approve the present zone configuration or request to launch, where appropriate, the regional process for defining new Bidding Zones as described in Article 38.</i>	The process should not necessarily lead to create new zones, but possibly to merge existing ones. The wording of the Codes should be neutral on that outcome.	<i>4. Based on the first biennial technical analysis and their own market efficiency analysis, National Regulatory Authorities shall either approve the present zone configuration or request to launch, where appropriate, the regional process for defining <del>new</del> Bidding Zones <b>configurations</b> as described in Article 38.</i>



Article number	Article text	Comment	Change Proposal
<p><b>Art.36-</b> Biannual technical analysis</p>	<p>1. The analysis shall include, at least:  <i>(a) a list of Structural Congestions and major congestions, including their location and frequency;</i>  <i>(b) a list of cases where operational security has been threatened, including their duration, and severity</i>  <i>(c) analysis of the expected evolution of these congestions due to investments in networks or due to significant changes in generation or consumption;</i>  <i>(d) analysis of the share of power flows that do not result from capacity allocation mechanism, for each Capacity Calculation Region where appropriate; and</i>  <i>(e) Congestion Incomes, Cross Zonal firmness costs in accordance with Article 93 and internal and Cross Zonal Redispatching costs for each Bidding Zone.</i></p>	<p>Not only congestion, but also the absence of congestion, should be taken into account in the assessment of defining new bidding zone configuration - otherwise, it reduces the opportunity to merge uncongestion zones as the case may be.</p>	<p>1. The analysis shall include, at least:  <i>(a) a list of Structural Congestions and major congestions, including their location and frequency;</i>  <b><i>(b) a list of the of Structural Congestion on existing borders;</i></b>  <i>(bd) a list of cases where operational security has been threatened, including their duration, and severity</i>  <i>(ee) analysis of the expected evolution of these congestions due to investments in networks or due to significant changes in generation or consumption;</i>  <i>(ef) analysis of the share of power flows that do not result from capacity allocation mechanism, for each Capacity Calculation Region where appropriate; and</i>  <b><i>(eg) Congestion Incomes, Cross Zonal firmness costs in accordance with Article 93 and internal and Cross Zonal Redispatching costs for each Bidding Zone.</i></b></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art. 38 -</b> Regional process for Bidding Zones configuration</p>	<p>2. Notwithstanding paragraph 1 if: (a) due to system security or security of supply reasons; or (b) the Bidding Zone configuration has negligible impact on neighbouring System Operators; or (c) as a result of rapid and unforeseen changes in network topology, patterns of generation and load or local energy situations (deficit or surplus) that would result in a significant social welfare decrease in the event that the Bidding Zone configuration were not amended.</p> <p>The affected System Operator and the National Regulatory Authority may perform a specific process to define new Bidding Zone configurations in an open and transparent manner, while taking into consideration time constraints, where appropriate.</p>	<p>Such “fast track” process of regional bidding zones reassessment, by-passing the normal consultation and regulatory review process, will giving much discretion to TSOs for deciding on the new bidding zones configuration, and run the risk of too frequent changes in configuration - thus it is hardly justifiable.</p>	<p><b>paragraph to be deleted, together with references to it in the rest of the Article</b></p>
<p><b>Art. 38 -</b> Regional process for Bidding Zones configuration</p>	<p>8. The affected System Operator(s) participating in the regional process for configuring new Bidding Zones shall: (...) (d) consult affected Market Participants about the new Bidding Zone configuration proposal;</p>	<p>Market Operators are likely to be affected by the definition of new Bidding Zones (in term of market and system readiness), they should thus also be consulted.</p>	<p>8. The affected System Operator(s) participating in the regional process for configuring new Bidding Zones shall: (...) (d) consult affected Market Participants <b>and Market Operators</b> about the new Bidding Zone configuration proposal;</p>

Article number	Article text	Comment	Change Proposal
<b>Art. 38</b> - Regional process for Bidding Zones configuration	<i>10. The concerned National Regulatory Authority(ies) participating in the regional process for defining new Bidding Zone configurations shall: (a) consult Market Participants about the proposal of new Bidding Zone configuration and the time needed to prepare for the new Bidding Zone configuration; (...)</i>	Market Operators are likely to be affected by the definition of new Bidding Zones (in term of market and system readiness), they should thus also be consulted.	<i>10. The concerned National Regulatory Authority(ies) participating in the regional process for defining new Bidding Zone configurations shall: (a) consult Market Participants <b>and affected Market Operators</b> about the proposal of new Bidding Zone configuration and the time needed to prepare for the new Bidding Zone configuration; (...)</i>
<b>Article 39</b> - Functions within the day-ahead electricity market	<i>1. The Day Ahead electricity market shall involve the following functions: (a) System Operator; (b) Market Operator; (c) Market Coupling Operator; (d) Coordinated Capacity Calculator; (e) Market Information Aggregator; and (f) Scheduled Exchange Calculator.</i>	The network codes cannot apply to the market organisation within a country. Within a country there can and will be a lot of roles not listed in this article and thus this list could be read as forbidding certain activities on the electricity market (which in most countries is not just the Exchange market) in all the countries in the EU. Besides there is no reason to define the roles for purely national exchange trading - these roles will be defined in the national laws and regulations.	<i>1. The Day Ahead electricity market <b>price coupling</b> shall involve the following functions: (a) System Operator; (b) Market Operator; (c) Market Coupling Operator; (d) Coordinated Capacity Calculator; (e) Market Information Aggregator; and (f) Scheduled Exchange Calculator.</i>

Article number	Article text	Comment	Change Proposal
<p><b>Art. 40 -</b> Allocation of functions</p>	<p>1. While respecting the principles of transparency, proportionality and non-discrimination, each Member State shall, where required, ensure that a competent entity or entities has been appointed or identified to perform and assume responsibility for each of the functions specified in Article 39 subject to the following:</p> <p>(a) TSOs shall be responsible for the function of:</p> <ul style="list-style-type: none"> <li>- System Operator in accordance with Article 6 (1)</li> <li>- Scheduled Exchange Calculator as specified in Article 55; and</li> <li>- Market Information Aggregator as specified in Article 57.</li> </ul> <p>2. TSOs shall be entitled to appoint third parties to perform the functions above.</p>	<p>As already indicated it is not the purpose of the Network Codes to define and allocate functions related to electricity Markets: this is the objective of the Governance Guideline and the solution is not to include the same text in both rules, but to delete this kind of articles from the Network Codes.</p>	<p><b>Delete the Article and all the references to establishing functions and assigning them from the Network Codes</b></p> <p><b>Alternatively add the following:</b></p> <p><b>3.PXs shall be responsible for the function of Market Operator and Market Coupling Operator. PXs shall be entitled to appoint third parties to perform the function of Market Coupling Operator.</b></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art. 41 -</b> Regulatory approval of day-ahead capacity allocation arrangements</p>	<p><i>1. In timescales which allow National Regulatory Authorities to make a decision on the Price Coupling Algorithm and Arrangements for Day Ahead Capacity Allocation concurrently, all System Operators shall establish and submit to concerned National Regulatory Authorities a common methodology for Day Ahead Capacity Allocation. The proposal shall fulfil the requirements laid down in Articles 39 to 57 of this Network Code.</i></p>	<p>All National Regulatory Authorities shall make the decision jointly.</p>	<p><i>1. In timescales which allow <b>all</b> National Regulatory Authorities to make a decision on the Price Coupling Algorithm and Arrangements for Day Ahead Capacity Allocation concurrently, all System Operators shall establish and submit to concerned National Regulatory Authorities a common methodology for Day Ahead Capacity Allocation. The proposal shall fulfil the requirements laid down in Articles 39 to 57 of this Network Code.</i></p>
<p><b>Art. 41 -</b> Regulatory approval of day-ahead capacity allocation arrangements</p>	<p><i>1. In timescales which allow National Regulatory Authorities to make a decision on the Price Coupling Algorithm and Arrangements for Day Ahead Capacity Allocation concurrently, all System Operators shall establish and submit to concerned National Regulatory Authorities a common methodology for Day Ahead Capacity Allocation. The proposal shall fulfil the requirements laid down in Articles 39 to 57 of this Network Code.</i></p>	<p>This is not compatible with the 2012/2014 deadlines for implementation of European DA MC. The Market Operators need comfort on technical and financial features (including cost recovery) of the implementation projects before the entry into force of the Network Code.</p>	

Article number	Article text	Comment	Change Proposal
<p><b>Article 42 -</b> Price coupling algorithm: General provisions</p>	<p>1. <i>The Market Coupling Operator appointed in accordance with Article 40 shall develop, maintain and operate a single Price Coupling Algorithm compliant with the requirements specified in this Network Code.</i></p> <p>2. <i>The Market Coupling Operator shall ensure that information is made available such that Market Participants and interested parties are able to understand the functioning of the Price Coupling Algorithm. The source code of the Algorithm shall be made publically available while respecting the intellectual property rights of the owners.</i></p>	<p>Market Coupling Operators will work under the responsibility of Market Operators for what concerns the operation of the algorithm - as price formation should remain a national responsibility.</p> <p>Algorithm source code publication and transparency requirements on the algorithm functional descriptions (including the full description of the matching rules) are two separate issues. In addition the algorithm, without the data information is not very useful as far as transparency of the process.</p>	<p>1. <i>The Market <del>Coupling</del> Operator appointed in accordance with Article 40 shall develop, maintain and operate a single Price Coupling Algorithm compliant with the requirements specified in this Network Code.</i></p> <p>2. <i>The Market <del>Coupling</del> Operator shall ensure that information is made available such that Market Participants and interested parties are able to understand the functioning of the Price Coupling Algorithm. The <b>full functional description source code</b> of the Algorithm shall be made publically available while respecting the intellectual property rights of the owners.</i></p>

Article number	Article text	Comment	Change Proposal
<p><b>Article 43 - Objectives of the price coupling algorithm</b></p>	<p><i>The Price Coupling Algorithm shall determine the results specified in Article 46, in a manner which:</i></p> <p><i>(a) maximises economic surplus for the price coupled region for the subsequent trading day;</i></p> <p><i>(b) uses the marginal pricing principle to generate results per Bidding Zone per Market Time Period;</i></p> <p><i>(c) respects Network Constraints ;</i></p> <p><i>(d) respects Cross Zonal Capacities;</i></p> <p><i>(e) respects the requirements for the delivery of results as specified in accordance with Article 44;</i></p> <p><i>(f) has a consistently high level of availability, is repeatable and scalable; and</i></p> <p><i>(g) avoids undue discrimination.</i></p> <p><i>2. The Price Coupling Algorithm shall be capable of being efficiently extended to a larger or smaller number of Bidding Zones.</i></p>	<p>Objective a) "maximisation of the economic surplus" can only be ensured "as far as possible", as a very slightly decrease the welfare might be needed to preserve the quality of the results (avoid large price differences of Paradoxically Rejected Blocks...)</p> <p>Isn't objective (d) included in (c)?</p> <p>Objective (f) is not measurable ex-ante</p> <p>Although the algorithm should be robust to an increase of bidding zones number, the effect on computing-time can be severely affected in case the number of bidding zones increases to the extent of a modification of the grid model from zonal to nodal. In case of a nodal model, the current market coupling mechanism, including the algorithm, can in fact not be considered as suitable.</p>	<p><i>The Price Coupling Algorithm shall determine the results specified in Article 46, in a manner which:</i></p> <p><i>(a) maximises economic surplus <b>as far as possible</b> for the price coupled region for the subsequent trading day;</i></p> <p><i>(b) uses the marginal pricing principle to generate results per Bidding Zone per Market Time Period;</i></p> <p><i>(c) respects Network Constraints <b>including Cross Zonal Capacities;</b></i></p> <p><i>(<del>e</del>) respects the requirements for the delivery of results as specified in accordance with Article 44;</i></p> <p><i><del>(f) has a consistently high level of availability, is repeatable and scalable; and</del></i></p> <p><i>(<del>g</del>) avoids undue discrimination.</i></p> <p><i>2. The Price Coupling Algorithm shall be capable of being efficiently extended to a larger or smaller number of Bidding Zones <b>as far as the number of bidding zones is compliant with a zonal grid model.</b></i></p>



Article number	Article text	Comment	Change Proposal
<p><b>Article 44 -</b> Development of the price coupling algorithm</p>	<p>1. No later than 6 month after the entry into force of this Network Code: (a) All System Operators shall provide the Market Coupling Operator with a set of requirements (...) (b) All Market Operators shall provide the Market Coupling Operator with a set of requirements (...)</p> <p>2. (...) the Market Coupling Operator shall develop a proposal for a single Price Coupling Algorithm which meet the requirements (...) This proposal shall include the time until which Market Operators shall submit received Orders to the Market Coupling Operator in accordance with Article 54.</p> <p>3. This proposal shall be submitted by the Market Coupling Operator to the System Operators and Market Operators. (...) (...)</p>	<p>The article assumes that the role of the Market Coupling Operator is to receive requirements from TSOs and bid collectors and to develop and operate the Intraday Market, where in fact it is the Market Operator which is foreseen to be accountable for these functions.</p> <p>In addition, the wording of the article seems to imply that the whole process of development of the algorithm will be re-started from the beginning, where it is close to finalization today in most of Europe today; there is therefore no acknowledgement of work already done in current projects regional and European market coupling projects.</p> <p>Deadline for sending of Orders to the Market Coupling Operator shall be in accordance with Article 53. This is not compatible with the 2012/2014 deadlines for implementation of European DA MC. The Market Operators need comfort on technical and financial features (including cost recovery) of the implementation projects before the entry into force of the Network Code.</p>	<p>1. To the extent the validation of the Price Coupling Algorithm has not been validated by ENTSOE prior to the entry into force of this Network Code and no later than 6 month after the entry into force of this Network Code: (a) All System Operators shall provide the Market Coupling Operators with a set of requirements (...) (b) All Market Operators shall provide the Market Coupling Operators with a set of requirements (...)</p> <p>2. (...) the Market Coupling Operators shall develop a proposal for a single Price Coupling Algorithm which meet the requirements (...) This proposal shall include the time until which Market Operators shall submit received Orders to the Market Operator <b>acting this day as Market Coupling Operator and to the other Market Operators</b> in accordance with Article 54 53.</p> <p>3. This proposal shall be submitted by the Market Coupling Operators to the System Operators <del>and Market Operators</del>. (...) (...)</p> <p><b>6. Algorithm requirements and solutions which have already been subject to regulatory review and approval through regional or pan-European market coupling implementation projects shall be exempted from the development process described above.</b></p>



Article number	Article text	Comment	Change Proposal
<p><b>Article 45</b> - Amendment of the price coupling algorithm</p>	<p>1. In the event that:            (a) System Operators identify an amendment to the Price Coupling Algorithm which could, in their opinion, better facilitate the objectives specified in Article 43; or            (b) System Operators identify a need to update the requirements which the Price Coupling Algorithm shall meet. System Operators shall provide an updated set of requirements to the Market Coupling Operator. (...)</p>	<p>The article assumes that the role of the Market Coupling Operator is to receive requirements from TSOs and bid collectors and to develop and operate the Intraday Market, where in fact it is the Market Operator which is foreseen to be accountable for these functions.</p> <p>In addition, this official process of algorithm development shall only be applicable to modifications affecting capacity allocation; otherwise it implies the risk of a very rigid general process of market development.</p> <p>Discussion on the System Operators level shall take place prior to providing set of requirements to prevent conflict of requirements. Is not point (a) and (b) nearly the same issue?</p>	<p>1. In the event that:            (a) System Operators <b>jointly</b> identify an amendment to the Price Coupling Algorithm which could, in their opinion, better facilitate the objectives specified in Article 43, <b>and which affect materially the efficiency of capacity allocation;</b><del>or</del>  <del>(b) System Operators identify a need to update the requirements which the Price Coupling Algorithm shall meet.</del>            System Operators shall provide an updated set of requirements to the Market <del>Coupling</del> Operators. (...)</p>

Article number	Article text	Comment	Change Proposal
<p><b>Article 45 -</b> Amendment of the price coupling algorithm</p>	<p>2. In the event that the Market Coupling Operator or Market Operators identify an amendment to the Price Coupling Algorithm; the Market Coupling Operator or Market Operators shall provide information to System Operators outlining the rationale for the proposed amendment.</p> <p>(a) Upon receipt of the information, System Operators shall review the proposed amendment and, if related to efficient Capacity Allocation, provide an updated set of requirements related to efficient Capacity Allocation in line with the proposed amendment to the Market Coupling Operator. (...)</p> <p>(b) If the proposed amendment is not related to efficient Capacity Allocation, System Operators shall upon receipt of the information notify the Market Coupling Operator or Market Operators and National Regulatory Authorities of their decision. (...)</p>	<p>The article assumes that the role of the Market Coupling Operator is to receive requirements from TSOs and bid collectors and to develop and operate the Intraday Market, where in fact it is the Market Operator which is foreseen to be accountable for these functions.</p> <p>In addition, this official process of algorithm development shall only be applicable to modifications affecting capacity allocation; otherwise it implies the risk of a very rigid general process of market development.</p> <p>Discussion on the System Operators level shall take place prior to providing set of requirements to prevent conflict of requirements. Is not point (a) and (b) nearly the same issue?</p>	<p>2. In the event that the <del>Market Coupling Operator or</del> Market Operators identify an amendment to the Price Coupling Algorithm <b>affecting materially the efficiency of capacity allocation</b>; the <del>Market Coupling Operator or</del> Market Operators shall provide information to System Operators outlining the rationale for the proposed amendment.</p> <p>(a) Upon receipt of the information, System Operators shall review the proposed amendment and, if related to efficient Capacity Allocation, provide an updated set of requirements related to efficient Capacity Allocation in line with the proposed amendment to the Market <del>Coupling</del> Operators. (...)</p> <p>(b) If the proposed amendment is not related to efficient Capacity Allocation, System Operators shall upon receipt of the information notify the <del>Market Coupling Operator or</del> Market Operators and National Regulatory Authorities of their decision. (...)</p>

Article number	Article text	Comment	Change Proposal
Article 46 - Inputs & Results	2. <i>The Price Coupling Algorithm shall, at least, simultaneously determine the following information for each Market Time Period:</i> <i>(a) Clearing price for each Bidding Zone and Market Time Period in Euros/MWh;</i> <i>(b) Net Position for each Bidding Zone;</i> <i>and</i> <i>(c) Matched Orders.</i>	2. (c) "Matched Orders" is not correct, as the price coupling auction algorithm is not a portfolio allocation tool	2. <i>The Price Coupling Algorithm shall, at least, simultaneously determine the following information for each Market Time Period:</i> <i>(a) Clearing price for each Bidding Zone and Market Time Period in Euros/MWh;</i> <i>(b) Net Position for each Bidding Zone; and</i> <i>(c) <del>Matched Orders</del> Execution status of complex orders (e.g. fill-or-kill block orders, Minimum Income orders...)</i>
Article 47 - Format of orders	1. <i>Orders submitted to the Price Coupling Algorithm shall be expressed in terms of Euro/MWh making reference to Market Time.</i>	The obligation to refer to Market Time is not compatible with some smart orders.	1. <i>Orders submitted to the Price Coupling Algorithm shall be expressed in terms of Euro/MWh <del>making reference to Market Time.</del></i>

Article number	Article text	Comment	Change Proposal
<p><b>Article 48 -</b> Products accommodated</p>	<p>1. <i>The Market Coupling Operator shall, at least, ensure that the Price Coupling Algorithm is capable of accommodating hourly products, multi-hour products and products covering parts of an hour. Products shall be compatible with Market Time Periods as defined in Article 2.</i></p> <p>2. <i>Market Operators shall periodically, but at least every two years, liaise with:</i>  <i>(a) Market Participants to ensure that available products reflect their needs;</i>  <i>(b) System Operators to ensure products are reflective of power system security; and</i>  <i>(c) National Regulatory Authorities to ensure that the available products promote the objectives specified in Article 43.</i></p>	<p>Price-coupling auctions with non-hourly products are a major change of the market design, which has not been anticipated so far. In addition, it is not possible today on many borders to nominate cross-border non-hourly products: work needs to be done first at TSOs level, by harmonizing the cross-border nomination rules and scheduling systems.</p> <p>Clause 2 of this article is not in the scope of the Network Codes, as it interferes in the relationship of Market Operators with their customers/users and their local relationship towards their NRAs.</p>	<p>1. <del>The Market Coupling Operators shall, at least, ensure that the Price Coupling Algorithm is capable of accommodating hourly products, multi-hour products and products covering parts of an hour. Products shall be compatible with Market Time Periods as defined in Article 2.</del></p> <p>2. <del>Market Operators shall periodically, but at least every two years, liaise with:</del>  <del>(a) Market Participants to ensure that available products reflect their needs;</del>  <del>(b) System Operators to ensure products are reflective of power system security; and</del>  <del>(c) National Regulatory Authorities to ensure that the available products promote the objectives specified in Article 43.</del></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art 52 - Provision of input data</b></p>	<p><i>System Operators shall, for each Market Time Period, provide the input data specified Article 46 (1) (a) to the Market Coupling Operator. Data shall be provided as soon as reasonably practicable but in time to ensure the publication of the Cross Zonal Capacities to the market not later than 11.00 Market Time D-1.</i></p> <p><i>2. The Coordinated Capacity Calculator shall, for each Market Time Period, provide the input data specified Article 46 (1) (b) to the Market Coupling Operator. Data shall be provided as soon as reasonably practicable but in time to ensure the publication of the Cross Zonal Capacities to the market not later than 11.00 Market Time D-1.</i></p>	<p>Some Market Operators are responsible for publishing capacities to the respective Market Participants.</p> <p>Today, ATC values are published at 10:30 am for CWE MC. A publication deadline of 11:00 am would potentially mean a deterioration of market data publication standards.</p>	<p><i>System Operators shall, for each Market Time Period, provide the input data specified Article 46 (1) (a) to the <del>Market Coupling Operator</del> <b>and Market Operators</b>. Data shall be provided as soon as reasonably practicable but in time to ensure the publication of the Cross Zonal Capacities to the market not later than <del>11:00</del> <b>10:30</b> Market Time D-1.</i></p> <p><i>2. The Coordinated Capacity Calculator shall, for each Market Time Period, provide the input data specified Article 46 (1) (b) to the <del>Market Coupling Operators</del>. Data shall be provided as soon as reasonably practicable but in time to ensure the publication of the Cross Zonal Capacities to the market not later than <del>11:00</del> <b>10:30</b> Market Time D-1.</i></p>

Article number	Article text	Comment	Change Proposal
<p><b>Article 53 -</b> Operation of the day-ahead electricity market</p>	<p>1. <i>The Day Ahead Electricity Market shall open no later than 11.00 Market Time D-1.</i></p> <p>2. <i>Orders shall be submitted by Market Participants in accordance with Article 47, to Market Operators before Day Ahead Market Gate Closure. Market Operators shall ensure that all Orders are anonymized before being forwarded to the Market Coupling Operator.</i></p> <p>3. <i>Market Operators shall submit Orders received in accordance with paragraph 2 to the Market Coupling Operator no later than a time specified by the Market Coupling Operator in the proposal for a single Price Coupling Algorithm according to Article 44 (2) and approved by National Regulatory Authorities according to Article 44 (4).</i></p> <p>4. <i>The Day Ahead Market Gate Closure Time in each Bidding Zone shall be noon Market Time.</i></p>	<p>This article shall only apply to the coupling mechanism, not the whole Day-Ahead market; it shall also keep flexibility of market design while ensuring the necessary level of harmonization (what if the GCT needs to be changed in a short notice? Should we wait a full review of the Network Codes through committee?).</p> <p>Anonymity of orders collected in the SOB by Market Operators is out of scope of the Network Codes – it is a competition law issue to be dealt with between Market Operators.</p>	<p>1. <i>The Day Ahead Electricity <b>coupled</b> Markets shall open no later than <b>one hour before the Day Ahead Market Gate Closure time 11.00 Market Time D-1.</b></i></p> <p>2. <i>Orders shall be submitted by Market Participants in accordance with Article 47, to Market Operators before Day Ahead Market Gate Closure. <del>Market Operators shall ensure that all Orders are anonymized before being forwarded to the Market Coupling Operator.</del></i></p> <p>3. <i>Market Operators shall submit Orders received in accordance with paragraph 2 to the <b>Market Operator acting this day as Market Coupling Operator and to the other Market Operators to the Market Coupling Operator</b> no later than a time specified by the Market Coupling Operators in the proposal for a single Price Coupling Algorithm according to Article 44 (2) and approved by National Regulatory Authorities according to Article 44 (4).</i></p> <p>4. <i>The Day Ahead Market Gate Closure Time in each Bidding Zone shall <b>be fully harmonized in all the price-coupled market areas.</b></i></p>

Article number	Article text	Comment	Change Proposal
Art. 54 - Delivery of results	<i>The Market Coupling Operator shall use best endeavours to deliver the Price Coupling Algorithm results, as specified in Article 46, to System Operators, Coordinated Capacity Calculators, Market Operators and Market Information Aggregators no later than the time specified by System Operators in their requirements according to Article 44 (1) (a).</i>	Matched orders shall be delivered only to Market Operators.	<i>The <b>Market Operator acting this day as Market Coupling Operator</b> shall use best endeavours to deliver the Price Coupling Algorithm results <b>to the Market Operators. Market Operators, as specified in Article 46 will send the appropriate results</b> to System Operators, Coordinated Capacity Calculators and Market Information Aggregators <del>and Market Operators</del> no later than the time specified by System Operators in their requirements <del>according to Article 44 (1) (a).</del></i>
Article 56 - Initiation of fallback procedures	<i>2. In cases where the Market Coupling Operator is unable to deliver the results, the Market Coupling Operator shall notify Market Operators and the Market Information Aggregator(s) as soon as an issue is identified. The Market Information Aggregator(s) shall use best endeavours to provide a notification to Market Participants that fallback procedures may be followed.</i>	<p>- Market Operators should be in charge of their own communication to Market Participants</p> <p>The text proposed mixes the Market Coupling function with the Market Operator responsibilities of providing the Market results to TSOs and Market participants.</p> <p>- If Market Operators interfaces are used to broadcast messages on event they are not liable for, this should also be clearly indicated in the corresponding message ("sent on behalf of" [e.g. the TSOs])</p>	<i>2. In cases where the Market <del>Coupling</del> Operator is unable to deliver the results, the Market <del>Coupling</del> Operator shall notify other Market Operators and <b>System Operators</b> <del>the Market Information Aggregator(s)</del> as soon as an issue is identified. The Market <b>Operators Information Aggregator(s)</b> shall use best endeavours to provide a notification to Market Participants that fallback procedures may be followed.</i>



Article number	Article text	Comment	Change Proposal
<p><b>Art. 57 -</b> Publication of Market Information</p>	<p><i>For each Bidding Zone and for each Market Time Period as soon as reasonably practicable following the receipt of information from the Market Coupling Operator as defined in Article 54 Scheduled Exchange Calculators as defined in Article 55 or Coordinated Capacity Calculators as defined in Article 52, and no later than 15:30 Market Time D-1, the Market Information Aggregator shall, having first entered into appropriate commercial arrangements with the entity which is able to generate the data, publish on a central platform at minimum:</i></p> <p><i>(a) Net positions;</i> <i>(b) Clearing Prices;</i> <i>(c) Scheduled Exchanges where required by System Operators; and</i> <i>(d) Day Ahead Cross Zonal Capacities</i></p> <p><i>2. The Market Information Aggregator shall ensure that historical data for a period of not less than 5 years (where available) is available in an accessible format to Market Participants.</i></p>	<p>The Article assumes functions and allocates responsibilities to entities that do not exist yet, or might not exist in all jurisdictions, and in general, articles defining and assigning roles should be deleted from the Network Codes since the Governance Guideline is the proper Regulatory document to establish them.</p> <p>In addition, note that the concept of a "central information platform" for results publication is not considered necessary by PXs, which already communicate results to the appropriated parties (TSOs and market participants) using existing platforms.</p>	<p><i>For each Bidding Zone and for each Market Time Period as soon as reasonably practicable following the receipt of information from the Market <del>Coupling Operator as defined in Article 54</del> Scheduled Exchange Calculators as defined in Article 55 or Coordinated Capacity Calculators as defined in Article 52, and no later than 15:30 Market Time D-1, the Market Information Aggregator <b>(in case it exist in a given Market and the function is not performed directly by the Market Operator)</b> shall, having first entered into appropriate commercial arrangements or through Regulatory requirements with the entity which is able to generate the data, publish on a central platform at minimum:</i></p> <p><i>(a) Net positions;</i> <i>(b) Clearing Prices;</i> <i>(c) Scheduled Exchanges where required by System Operators; and</i> <i>(d) Day Ahead Cross Zonal Capacities</i></p> <p><i>2. The Market Information Aggregator <b>Operator</b> (in case it exist in a given Market and the function is not performed directly by the Market Operator) shall ensure that historical data for a period of not less than 5 years (where available) is available in an accessible format to Market Participants.</i></p>



Article number	Article text	Comment	Change Proposal
<p><b>Title -</b> Chapter 4: The Intraday Electricity Market</p>	<p><i>The Intraday electricity Market</i></p>	<p>The Chapter title, and the contents, refers to "Intraday Market" when it should refer only to "cross border Intraday Market", since the possibility to have Intraday auctions is also contemplated in the Framework Guideline.</p> <p>In general the Network Codes should only address capacity allocation issues (cross-zonal issues) leaving to the National Codes (recognized in the Directive) the organization of the National Markets. The way the chapter is written completely ignores the possibility of Intraday auctions.</p>	<p>Chapter 4: The <b>Cross-Border</b> Intraday Electricity Market</p>
<p><b>Art. 58 -</b> Functions within the Intraday Market</p>	<p><i>1. The Intraday electricity market shall involve the following functions:</i> <i>(a) System Operator;</i> <i>(b) Market Operator;</i> <i>(c) Market Coupling Operator;</i> <i>(d) Coordinated Capacity Calculator;</i> <i>(f) Scheduled Exchange Calculator.</i></p>	<p>The network codes cannot apply to the market organisation within a country. Within a country there can and will be a lot of roles not listed in this article and thus this list could be read as forbidding certain activities on the electricity market (which in most countries is not just the Exchange market) in all the countries in the EU. Besides there is no reason to define the roles for purely national exchange trading - these roles will be defined in the national laws and regulations.</p>	<p><i>1. The <b>continuous cross-border</b> Intraday electricity market shall involve the following functions:</i> <i>(a) System Operator;</i> <i>(b) Market Operator;</i> <i>(c) Market Coupling Operator;</i> <i>(d) Coordinated Capacity Calculator;</i> <i>(f) Scheduled Exchange Calculator.</i></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art. 59 -</b> Allocation of functions</p>	<p>1. <i>While respecting the principles of transparency, proportionality and non-discrimination, each Member State shall, where required, ensure that a competent entity or entities has been appointed or identified to perform and assume responsibility for each of the functions specified in Article 58 subject to the following:</i></p> <p><i>(a) TSOs shall be responsible for the function of:</i></p> <ul style="list-style-type: none"> <li>- <i>System Operator in accordance with Article 6 (1); and</i></li> <li>- <i>Scheduled Exchange Calculator as specified in Article 69.</i></li> </ul> <p>2. <i>TSOs shall be entitled to appoint third parties to perform the functions above.</i></p>	<p>As already indicated it is not the purpose of the Network Codes to define and allocate functions related to electricity Markets: this is the objective of the Governance Guideline and the solution is not to include the same text in both rules, but to delete this kind of articles from the Network Codes.</p> <p>In addition, in the Intraday Target Model where the Market Operators/Market Coupling Operators are operating an integrated SOB-CMM system, <b>it is functionally impossible to allocate the function of "Scheduled Exchange Calculator" as specified in article 69 to the System Operators</b>, since this function is embedded in the CMM system: System Operators provide the calculation methodology to be used in calculating Scheduled Exchanges, to be then executed by Market Operators/Market Coupling Operators.</p>	<p><b>Delete the Article and all the references to establishing functions and assigning them from the Network Codes</b></p> <p><b>Alternatively add the following:</b></p> <p><b>3.PXs shall be responsible for the function of Market Operator and Market Coupling Operator. PXs shall be entitled to appoint third parties to perform the function of Market Coupling Operator."</b></p> <p><b>and delete the reference of "Scheduled Exchange Calculator" to be to allocated System Operators.</b></p>

Article number	Article text	Comment	Change Proposal
<p><b>Article 60</b> - Regulatory approval of intraday capacity allocation arrangements</p>	<p><i>In timescales which allow National Regulatory Authorities to make a decision on the Continuous Trading Matching Algorithm and Arrangements for Intraday Capacity Allocation concurrently, all System Operators shall establish and submit to concerned National Regulatory Authorities a common methodology for Intraday <del>Ahead</del> Capacity Allocation. The proposal shall fulfil the requirements laid down in Articles 58 to 72 of this Network Code.</i></p>	<p>This is not compatible with the 2012/2014 deadlines for implementation of European DA MC. The Market Operators need comfort on technical and financial features (including cost recovery) of the implementation projects before the entry into force of the Network Code.</p>	

Article number	Article text	Comment	Change Proposal
<p><b>Art.61 -</b> Objectives of the continuous trading matching algorithm</p>	<p>1. As from the Intraday Cross Zonal Gate Opening Time and prior to the Intraday Cross Zonal Gate Closure Time, the Continuous Trading Matching Algorithm shall determine which Orders to select for Matching such that it:</p> <p>(a) maximises Economic Surplus per trade for the Intraday timeframe by allocating implicitly capacity to the best Orders that are possible to match in accordance to price and time of entrance;</p> <p>(b) respects Network Constraints provided in accordance with Article 66 (4);</p> <p>(c) respects Cross Zonal Capacities as specified in Article 66 (1);</p> <p>(d) respects requirements for the delivery of results as referred to in Article 62;</p> <p>(e) has a consistently high level of availability, is repeatable and scalable; and</p> <p>(f) avoids undue discrimination</p>	<p>Objective 1(a) does not mean anything in a continuous market, where economic surplus is not defined (orders are not entered "blindly" in advance)</p>	<p>1. As from the Intraday Cross Zonal Gate Opening Time and prior to the Intraday Cross Zonal Gate Closure Time, the Continuous Trading Matching Algorithm shall determine which Orders to select for Matching such that it:</p> <p>(a) <del>maximises Economic Surplus per trade for the Intraday timeframe by allocating</del> <b>implicitly capacity to the best Orders that are possible to match in accordance to price and time of entrance-stamp matching priorities;</b></p> <p>(b) respects Network Constraints provided in accordance with Article 66 (4);</p> <p>(c) respects Cross Zonal Capacities as specified in Article 66 (1);</p> <p>(d) respects requirements for the delivery of results as referred to in Article 62;</p> <p>(e) has a consistently high level of availability, is repeatable and scalable; and</p> <p>(f) avoids undue discrimination</p>

Article number	Article text	Comment	Change Proposal
<p><b>Art.62 -</b> Continuous trading matching algorithm development</p>	<p>1. No later than 6 month after the entry into force of this Network Code: (a) All System Operators shall provide the Market Coupling Operator with a set of requirements (...) (b) All Market Operators shall provide the Market Coupling Operator with a set of requirements (...)</p> <p>2. (...) the Market Coupling Operator shall develop a proposal for a single Continuous Trading Matching Algorithm which is compliant with the requirements provided pursuant to paragraph 1.</p> <p>3. This proposal shall be submitted by the Market Coupling Operator to the System Operators and Market Operators. (...) (...)</p>	<p>The article assumes that the role of the Market Coupling Operator is to receive requirements from TSOs and bid collectors and to develop and operate the Intraday Market, where in fact it is the Market Operator which is foreseen to be accountable for these functions.</p> <p>In addition, the wording of the article seems to imply that the whole process of development of the algorithm will be re-started from the beginning, where it is close to finalization in most of Europe today; there is therefore no acknowledgement of work already done in current projects regional and European market coupling projects.</p>	<p>1. No later than 6 month after the entry into force of this Network Code: (a) All System Operators shall provide <del>the</del> Market <del>Coupling</del> Operators with a set of requirements (...) <del>(b) All Market Operators shall provide the Market Coupling Operator with a set of requirements (...)</del></p> <p>2. (...) the Market <del>Coupling</del> Operators shall develop a proposal for a single Continuous Trading Matching Algorithm which is compliant with the requirements provided pursuant to paragraph 1.</p> <p>3. This proposal shall be submitted by the Market <del>Coupling</del> Operators to the System Operators <del>and Market Operators</del>. (...) (...)</p>

Article number	Article text	Comment	Change Proposal
<p><b>Art.62 -</b> Continuous trading matching algorithm development</p>	<p>5. <i>The source code of the Continuous Trading Matching Algorithm shall be made publically available while respecting the intellectual property rights of the owners.</i></p> <p>6. <i>In the event that, in the opinion of the Market Coupling Operator, the Market Operator or System Operators, it would not be feasible to meet a timescale specified in paragraphs 1 -4, the Market Coupling Operator, the Market Operators or System Operators shall be entitled to submit a single proposal to amend the timescale specified in paragraphs 1-6 to National Regulatory Authorities.(...)</i></p>	<p>Algorithm source code publication and transparency requirements on the algorithm functional descriptions (including the full description of the matching rules) are two separate issues. In addition the algorithm, without the data information is not very useful as far as transparency of the process.</p> <p>In the event covered under point 6, each party should have the opportunity to submit a proposal reflecting its own constraints, even though it might not have met a consensus with the other parties involved.</p>	<p>5. <del>The source code</del> <b>full functional description</b> of the Continuous Trading Matching Algorithm shall be made publically available while respecting the intellectual property rights of the owners.</p> <p>6. <i>In the event that, in the opinion of the Market Coupling Operator, the Market Operator or System Operators, it would not be feasible to meet a timescale specified in paragraphs 1 -4, the Market Coupling Operator, the Market Operators or System Operators shall be entitled to submit a <del>single</del> proposal to amend the timescale specified in paragraphs 1-6 to National Regulatory Authorities.(...)</i></p> <p><b>7. Algorithm requirements and solutions which have already been subject to regulatory review and approval through regional or pan-European market coupling implementation projects shall be exempted from the development process described above.</b></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art.63 -</b> Continuous trading matching algorithm amendment</p>	<p>1. In the event that System Operators identify an amendment to the Continuous Trading Matching Algorithm; System Operators shall provide an updated set of requirements pursuant to Article 62 (1) (a) to the Market Coupling Operator. (...)</p> <p>2. In the event that the Market Coupling Operator or Market Operators identify an amendment to the Continuous Trading Matching Algorithm; the Market Coupling Operator or Market Operators shall provide information to System Operators outlining the rationale for the proposed amendment.</p> <p>(c) Upon receipt of the information, System Operators shall review the proposed amendment and, if related to efficient Capacity Allocation, provide an updated set of requirements related to efficient Capacity Allocation in line with the proposed amendment to the Market Coupling Operator. (...)</p> <p>(d) If the proposed amendment is not related to efficient Capacity Allocation, System Operators shall upon receipt of the information notify the Market Coupling Operator or Market Operators and National Regulatory Authorities of their decision. (...)</p>	<p>The article assumes that the role of the Market Coupling Operator is to receive requirements from TSOs and bid collectors and to develop and operate the Intraday Market, where in fact it is the Market Operator which is foreseen to be accountable for these functions.</p> <p>In addition, this official process of algorithm development shall only be applicable to modifications affecting capacity allocation, otherwise it implies the risk of a very rigid general process of market development.</p> <p>In the case that the proposed amendment is not related to efficient Capacity Allocation, System Operators and NRAs should not have to approve the amendment.</p>	<p>1. In the event that System Operators identify an amendment to the Continuous Trading Matching Algorithm <b>affecting materially the efficiency of capacity allocation</b>; System Operators shall provide an updated set of requirements pursuant to Article 62 (1) (a) to the Market <del>Coupling</del> Operators. (...)</p> <p>2. In the event that the <del>Market Coupling Operator or</del> Market Operators identify an amendment to the Continuous Trading Matching Algorithm <b>affecting materially the efficiency of capacity allocation</b>; the <del>Market Coupling Operator or</del> Market Operators shall provide information to System Operators outlining the rationale for the proposed amendment.</p> <p>(c) Upon receipt of the information, System Operators shall review the proposed amendment and, if related to efficient Capacity Allocation, provide an updated set of requirements related to efficient Capacity Allocation in line with the proposed amendment to the Market <del>Coupling</del> Operators. (...)</p> <p><del>(d) If the proposed amendment is not related to efficient Capacity Allocation, System Operators shall upon receipt of the information notify the Market Coupling Operator or Market Operators and National Regulatory Authorities of their decision. (...)</del></p>

Article number	Article text	Comment	Change Proposal
<b>Art.63</b> - Continuous trading matching algorithm amendment	<i>2. In the event that the Market Coupling Operator or Market Operators identify an amendment to the Price Coupling Algorithm; the Market Coupling Operator or Market Operators shall provide information to System Operators outlining the rationale for the proposed amendment.</i>	This official process of algorithm development shall only be applicable to modifications affecting capacity allocation, otherwise it implies the risk of a very rigid general process of market development.	<i>2. In the event that the Market Coupling Operator or Market Operators identify an amendment to the Price Coupling Algorithm <b>which may materially affect the efficiency of capacity allocation</b>; the Market Coupling Operator or Market Operators shall provide information to System Operators outlining the rationale for the proposed amendment.</i>
<b>Art.64</b> - Results of the continuous trading matching algorithm	<i>The Market Coupling Operator shall ensure that the Continuous Trading Matching Algorithm shall perform the Matching of Orders resulting in: (a) Matched Orders and price(s) per trade; and (b) Net Positions for each Market Time Period within the Intraday timeframe.</i>	Net positions are not an output of a continuous trading algorithm	<i>The Market Coupling Operator shall ensure that the Continuous Trading Matching Algorithm shall perform the Matching of Orders resulting in: (a) Matched Orders and price(s) per trade; and <del>(b) Net Positions for each Market Time Period within the Intraday timeframe.</del></i>



Article number	Article text	Comment	Change Proposal
<p><b>Art.65 - Products accommodated</b></p>	<p>1. Market Operators shall ensure that all Orders submitted to the Market Coupling Operator are expressed in terms of Euro and make reference to Market Time.</p> <p>2. Market Operators shall ensure that products shall be compatible with the characteristics of the Cross Zonal Capacities allowing them to match simultaneously.</p> <p>3. Market Operators shall periodically liaise with relevant stakeholders, in order to ensure that the available products reflect Market Participants` needs and promote the objectives specified in Article 61. This shall be done in close cooperation with the System Operators.</p> <p>4. The Market Coupling Operator shall ensure that the Continuous Trading Matching Algorithm is able to accommodate hourly and multi-hourly Orders, and Orders covering parts of an hour.</p>	<p>Energy products characteristics shall not be unduly constrained by the Network Codes, which should more efficiently refer to the requirements of cross-border capacity allocation.</p> <p>In addition, it is not possible today on many borders to nominate cross-border non-hourly products: work needs to be done first at TSOs level, by harmonizing the cross-border nomination rules and scheduling systems. Also settlement and imbalance rules need to be harmonized with scheduling/nomination rules.</p>	<p>1. Market Operators shall ensure that all Orders submitted to the Market Coupling Operator <del>are expressed in terms of Euro and</del> make reference to Market Time.</p> <p>2. Market Operators shall ensure that products shall be compatible with the characteristics of the Cross Zonal Capacities allowing them to match simultaneously, <b>provided System Operators have ensured that cross-border nomination, cross-border scheduling, settlement and imbalance rules are harmonized accordingly.</b></p> <p>3. Market Operators shall periodically liaise with relevant stakeholders, in order to ensure that the available products reflect Market Participants` needs and promote the objectives specified in Article 61. This shall be done in close cooperation with the System Operators.</p> <p>4. The Market Coupling Operator shall ensure that the Continuous Trading Matching Algorithm is able to accommodate hourly and multi-hourly Orders, and Orders covering parts of an hour, <b>provided System Operators have ensured that cross-border nomination, cross-border scheduling, settlement and imbalance rules are harmonized accordingly.</b></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art.67 -</b> Operation of the Intraday market</p>	<p><i>Operation of the Intraday Market</i></p>	<p>The article title and the contents refers to "Intraday Market" when it should refer to "cross border Intraday Market" since the possibly to have Intraday auctions is also contemplated in the Framework Guideline. In general the Network Codes should only address capacity allocation issues (cross-zonal issues) leaving to the National Codes (recognized in the Directive) the organization of the National Markets.</p>	<p><i>Operation of the <b>Cross-Border</b> Intraday Market</i></p>
<p><b>Art.67 -</b> Operation of the Intraday market</p>	<p><i>1. System Operators shall be responsible for setting the Intraday Cross Zonal Gate Opening and Intraday Cross Zonal Gate Closure Time.</i></p>	<p>Given the important consequences of these timing for the functioning of local and cross-border intraday market, NRAs should approve such settings. Depending on the times fixed, the compatibility required by the Framework Guidelines of the Cross border Implicit continuous and the Implicit auctions will be impossible.</p>	<p><i>1. System Operators shall be responsible for setting the Intraday Cross Zonal Gate Opening and Intraday Cross Zonal Gate Closure Time, <b>subject to NRAs approval.</b></i></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art.67-</b> Operation of the Intraday market</p>	<p><i>2. All Orders for a given Market Time Period shall be submitted to Market Operators before the Intraday Energy Gate Closure Time. In order to have access to Cross Zonal trading, Orders for a given Market Time Period shall be submitted to the Market Coupling Operator before Intraday Cross Zonal Gate Closure Time.</i></p> <p><i>3. Market Operators shall ensure anonymity when submitting Orders to the Shared Order Book.</i></p>	<p>By definition, no Orders can be submitted to the shared order book after the Energy GCT, which is the time at which energy trading is no longer permitted.</p> <p>Access to cross-zonal trading is already ensured by the provision of <b>Art.76 (5)</b>.</p> <p>Anonymity of orders collected in the SOB by Market Operators is out of scope of the Network Codes – it is a competition law issue to be dealt with between Market Operators.</p>	<p><b><i>delete paragraphs</i></b></p>
<p><b>Art.67-</b> Operation of the Intraday market</p>	<p><i>5. The Intraday Cross Zonal Gate Closure Time shall be at the maximum one hour prior to the start of the next Market Time Period and must respect the balancing timeframe and related balancing processes related to system security.</i></p>	<p>For clarity, "<i>the start of the next market period</i>" should be interpreted as "the delivery time".</p> <p>Compatibility with local auctions should be taken into account.</p>	<p><i>5. The Intraday Cross Zonal Gate Closure Time shall be at the maximum one hour prior to the <del>start of the next Market Time Period</del> <b>delivery time, except when there are regional/local Intraday Implicit auctions, in which case the Cross-Zonal Gate Closure Time should be set in compatibility with them, and must respect also the balancing timeframe and related balancing processes related to system security.</b></i></p>

Article number	Article text	Comment	Change Proposal
<b>Art.68</b> - Delivery of results	<i>1. The Market Coupling Operator shall use best endeavours to deliver the results of the Continuous Trading Matching Algorithm as specified in Article 64 (1) (a) to Market Operators. In the event that the Market Coupling Operator, having used best endeavours, is unable to deliver these Continuous Trading Matching Algorithm results, the Market Coupling Operator shall notify Market Operators.</i>	This article relates to internal process of Market Operators in their role of operating the Shared Order Book, which is out of the scope of the Network Codes.	<b><i>delete paragraph</i></b>
<b>Art.68</b> - Delivery of results	<i>3. Market Operators shall send the necessary information to Market Participants to ensure that necessary post-trading actions can be undertaken.</i>	The Network Codes shall focus on the obligations related to the capacity allocation and congestion management.	<i>3. Market Operators shall send the necessary information to Market Participants to ensure that necessary post-trading actions <b>related to the cross-zonal exchanges</b> can be undertaken.</i>

Article number	Article text	Comment	Change Proposal
<p><b>Art.69 -</b> Calculation of scheduled exchanges</p>	<p><i>1. In situations where notifications of Scheduled Exchanges are required by System Operators, as soon as reasonably practicable after the entry into force of this Network Code and no later than 3 months from that date, System Operators shall define and publish a single methodology to be used in calculating Scheduled Exchanges between Bidding Zones following the Matching of Orders. The calculation of Scheduled Exchanges shall be based on the Continuous Trading Matching Algorithm results as specified in Article 64 (1) (b) and shall respect the principles of transparency and non-discrimination.</i></p>	<p>Even if notifications (i.e. nominations) are not required, program authorization with commercial exchange will be required</p>	<p><i>1. <del>In situations where notifications of Scheduled Exchanges are required by System Operators,</del> as soon as reasonably practicable after the entry into force of this Network Code and no later than 3 months from that date, System Operators shall define and publish a single methodology to be used in calculating Scheduled Exchanges between Bidding Zones following the Matching of Orders. The calculation of Scheduled Exchanges shall be based on the Continuous Trading Matching Algorithm results as specified in Article 64 (1) (b) and shall respect the principles of transparency and non-discrimination.</i></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art.69 -</b> Calculation of scheduled exchanges</p>	<p><i>3. The Scheduled Exchange Calculator shall, in accordance with this methodology, calculate Scheduled Exchanges each Market Time Period and notify them to the System Operators and Central Counter Parties as referred to in Article 74 as soon as reasonably practicable in accordance with the specifications established by System Operators.</i></p>	<p>We don't understand the rationale of this paragraph. Market Operators are committed to respect network constraints anyway. In general, to ensure a good functioning of the Intraday Solution, the calculation of commercial exchanges needs to be integrated in the process of capacity allocation by means of the capacity management module. Rather than defining the role of "Schedule Exchange Calculator" as performed by an entity per se, wouldn't it be more straightforward to define the methodology of commercial exchange calculation as set by the System Operators, and implemented by Market Operators in the Intraday Solution?</p>	<p><b><i>delete paragraph</i></b></p>
<p><b>Art.70 -</b> Publication of Market Information</p>	<p><i>1. Each Market Operator shall publish, at minimum, the results per Trade of the Continuous Trading Matching Algorithm in accordance with Article 64 (1) (a). 2. Each Market Operator shall ensure that historical data with respect to market information in this article is available in an accessible format to Market Participants for a period of not less than 5 years (where available).</i></p>	<p>This article relates to publication obligation of Market Operators already addressed by REMIT; such provisions shall not be included in the Network Codes, to avoid inconsistencies.</p>	<p><b><i>delete article</i></b></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art.71 -</b> Complementary regional auctions</p>	<p><i>1. Complementary regional auctions may be implemented subject to National Regulatory Authorities' approval and subject to the fulfilment of the following conditions:</i></p> <p><i>(a) the implementation of the regional auction shall not have an adverse impact on the liquidity of the pan-European Intraday solution;</i></p> <p><i>(b) all Cross Zonal Capacity shall be allocated through the Capacity Management Module;</i></p> <p><i>(c) the regional auction shall not introduce any undue discrimination between Market Participants from adjacent regions; and</i></p> <p><i>(d) the timescales for regional auctions shall be consistent with the pan-European Intraday solution to enable the Market Participants to trade as close as possible to real-time.</i></p>	<p>This article should refer to the necessary provision to make the regional auctions possible and compatible with the Cross-border Intraday Market, not to establish conditions to make them impossible.</p> <p>In some regions (Iberia, Italy) Intraday auctions are already in operation, and the requirement of the Framework Guideline to the Network Code is to ensure the efficiency of the mechanism implemented to link regional Intraday Implicit auctions and the pan-European cross-border Continuous Intraday trading, not to prevent them.</p> <p>In the Whereas it is already explained that the Regulatory approval requirement for the existence of the Intraday auctions is not an extra requirement in the Framework Guideline for this kind of Markets, as it is presented in the draft Network Codes.</p>	<p><i>1. Complementary regional auctions <b>may continue to be performed or</b> may be implemented subject to <del>National Regulatory Authorities' approval and subject to the fulfilment of the following conditions:</del></i></p> <p><i>(a) the implementation of the regional auction shall not have an adverse impact on the liquidity of the pan-European <b>continuous implicit</b> Intraday solution;</i></p> <p><i>(b) all Cross Zonal Capacity, <b>other than the internal cross-zonal capacities allocated by the implicit Intraday auction</b> shall be allocated through the Capacity Management Module;</i></p> <p><i>(c) the regional auction shall not introduce any undue discrimination between Market Participants from adjacent regions; and</i></p> <p><i>(d) the timescales for regional auctions shall be consistent with the pan-European Intraday solution to enable the Market Participants to trade as close as possible to real-time.</i></p>

Article number	Article text	Comment	Change Proposal
<p><b>Art.71 -</b> Complementary regional auctions</p>	<p><i>2. National Regulatory Authorities shall periodically, but at least every 2 years, review the compatibility between any regional solutions and the pan-European Intraday solution to ensure the conditions above continue to be fulfilled.</i></p>	<p>This requirement <b>2. National Regulatory Authorities shall periodically, but at least every 2 years, review the compatibility between any regional solutions and the pan-European Intraday solution to ensure the conditions above continue to be fulfilled</b>, does not exist in the Framework Guideline. It is convenient to review the efficiency of the cross-border mechanisms trading periodically, but not only this compatibility issue.</p> <p>The Capacity Management Module should be defined as it is unclear for anybody not having followed thoroughly the works preliminary to the drafting of this code.</p>	<p><b>2. System Operator shall set the Intraday Cross-Zonal Gate Opening Time early enough to allow traders to trade cross-border and still have time to participate in the complementary regional auction, having at least the opportunity to trade for the complete 24 hours of a day.</b></p> <p><del>2.3. National Regulatory Authorities shall periodically, but at least every 2 years, review the compatibility between any regional solutions and the pan-European Intraday solution to ensure the conditions above continue to be fulfilled.</del></p>



Article number	Article text	Comment	Change Proposal
<p><b>Art.72-</b> Pricing of Intraday Capacity</p>	<p>1. <i>Intraday Cross Zonal Capacity shall be priced at Bidding Zone Border(s) reflecting Market Congestion.</i></p> <p>2. <i>Where appropriate, the Intraday capacity pricing shall be included within the Continuous Trading Matching Algorithm.</i></p> <p>3. <i>In order to reflect the actual specific network and market situation, the Intraday Cross Zonal Capacity price shall be based on actual Orders</i></p> <p>4. <i>The methodology for pricing shall be developed in accordance with the algorithm amendment procedure set in Article 63 and shall be subject to approval by the National Regulatory authorities concerned.</i></p>	<p>We do not know the exact methodology of capacity pricing calculation. Therefore only the objectives, but not the means to reach them, should be set in the Codes.</p> <p>If pricing is requested, there shall be unique methodology for the whole Europe.</p>	<p>1. <i>Intraday Cross Zonal Capacity shall be priced <del>at Bidding Zone Border(s)</del> reflecting Market Congestion.</i></p> <p>2. <i>Where appropriate, the Intraday capacity pricing shall be included within the Continuous Trading Matching Algorithm.</i></p> <p><del>3. <i>In order to reflect the actual specific network and market situation, the Intraday Cross Zonal Capacity price shall be based on actual Orders</i></del></p> <p>4. <i>The <b>harmonized</b> methodology for pricing shall be developed in accordance with the algorithm amendment procedure set in Article 63 and shall be subject to <b>joint</b> approval by the National Regulatory authorities concerned.</i></p>

Article number	Article text	Comment	Change Proposal
<p><b>Article 74 -</b> Allocation of functions</p>	<p>1. While respecting the principles of transparency, proportionality and non-discrimination, each Member State shall ensure that a competent entity or entities has been appointed or identified to perform and assume responsibility for each of the functions specified above, subject to the following: (a) TSOs shall be responsible for the functions of: - Shipping Agent; - Congestion Income Distributor; and - Cross Zonal Scheduling Agent.</p> <p>2. TSOs shall be entitled to appoint third parties to perform the functions above.</p>	<p>As already indicated it is not the purpose of the Network Codes to define and allocate functions related to electricity Markets: this is the objective of the Governance Guideline and the solution is not to include the same text in both rules, but to delete this kind of articles from the Network Codes.</p> <p>In addition, depending on the technical scheme chosen on a given border, the Shipping Agent function can be also performed under the responsibility of the Market Operator or the Central Counter Party.</p> <p>Finally, the Cross-Zonal Scheduling Agent, being described in Article 79 as the agent responsible for nominations <b>cannot functionally be the TSOs</b>, to which these nominations are usually submitted.</p>	<p><b>Delete the Article and all the references to establishing functions and assigning them from the Network Codes</b></p> <p><b>Alternatively, reword in the following manner:</b></p> <p>1. While respecting the principles of transparency, proportionality and non-discrimination, each Member State shall ensure that a competent entity or entities has been appointed or identified to perform and assume responsibility for each of the functions specified above, subject to the following: (a) TSOs shall be responsible for the functions of: <del>—Shipping Agent;</del> - Congestion Income Distributor; and <del>—Cross Zonal Scheduling Agent.</del></p> <p>2. TSOs shall be entitled to appoint third parties to perform the functions above.</p>

Article number	Article text	Comment	Change Proposal
<p><b>Articles 75 - Objectives of Clearing and Settlement / Clearing and Settlement with Market Participants</b></p>	<p><i>1. Central Counter Parties shall perform clearing and settlement activities in a manner which promotes the achievement of the following objectives:</i></p> <p><i>(a) promoting economic efficiency;</i></p> <p><i>(b) minimizing cost;</i></p> <p><i>(c) clearing and settling trades in a timely manner; and</i></p> <p><i>(d) avoiding undue discrimination.</i></p>	<p>These two articles describe and prescribe the role of Central Counter Party in energy markets, operated by Market Operators.</p> <p>This falls completely out of the scope of the Network Codes mandate provided by the Framework Guidelines, and bears the risks of inconsistencies with other national and European laws under which operates CCPs.</p> <p>For sake of clarity, Central Counter Party is already defined in the Glossary of the Network Codes.</p>	<p><b>Delete both articles</b></p> <p><b>Alternatively, reword in the following manner:</b></p> <p><b><i>1. Subject to any law or regulation applicable to them, Central Counter Parties or Market Operators shall perform clearing and settlement activities in a manner which promotes the achievement of the following objectives,:</i></b></p> <p><i>(a) promoting economic efficiency;</i></p> <p><i>(b) minimizing cost;</i></p> <p><i>(c) clearing and settling trades in a timely manner; and</i></p> <p><i>(d) avoiding undue discrimination.</i></p>

Article number	Article text	Comment	Change Proposal
<p><b>Articles 76 - Objectives of Clearing and Settlement / Clearing and Settlement with Market Participants</b></p>	<p><i>1. The Central Counter Parties appointed in accordance with Article 74 shall ensure the clearing and settlement of all Matched Orders. The Central Counter Parties shall act as the counterparty to Market Participants for all their trades with regard to the financial rights and obligations arising from these trades. Central Counter Parties shall respect the principles of transparency and non-discrimination.</i></p> <p><i>2. The Central Counter Parties shall maintain anonymity between Market Participants.</i></p>	<p>These two articles describe and prescribe the role of Central Counter Party in energy markets, operated by Market Operators.</p> <p>This falls completely out of the scope of the Network Codes mandate provided by the Framework Guidelines, and bears the risks of inconsistencies with other national and European laws under which operates CCPs.</p> <p>For sake of clarity, Central Counter Party is already defined in the Glossary of the Network Codes.</p>	<p><b>Delete both articles</b></p> <p><b>Alternatively, reword in the following manner:</b></p> <p><b>1. Subject to any law or regulation applicable to them, the Central Counter Parties or Market Operators shall:</b></p> <p><del>(a) 1. The Central Counter Parties appointed in accordance with Article 74 shall ensure the clearing and settlement of all Matched Orders</del></p> <p><del>(b) -The Central Counter Parties shall act as the counterparty to Market Participants for all their trades with regard to the financial rights and obligations arising from these trades</del></p> <p><del>(c) -Central Counter Parties shall respect the principles of transparency and non-discrimination</del></p> <p><del>(d) 2. The Central Counter Parties shall maintain anonymity between Market Participants.</del></p>
<p><b>Art 77 - Cross zonal clearing and settlement</b></p>	<p><i>7. In the event that timing of payments is not harmonized between two Bidding Zones, involved Member States shall ensure an entity is appointed to manage the timing mismatch and face related costs.</i></p>	<p>It is impossible to settle in the Network regulation aspects such as how mismatch in payment cycles should be managed, as this also relates to national and European laws.</p>	<p><b>Delete the paragraph</b></p>

Article number	Article text	Comment	Change Proposal
<b>Article 80 -</b> The Day-Ahead firmness deadline	<p>5. In all cases, the Day Ahead Firmness Deadline shall be set at half an hour or more before the Gate Closure Time of the Day Ahead Market.</p>	<p>Firmness deadline only 30mn before the Gate Closure Time is too short for market participants to integrate the capacity information, especially if it is in the form of Flow-Based parameters.</p>	<p>5. In all cases, the Day Ahead Firmness Deadline shall be set at <del>half an</del> <b>one</b> hour or more <b>when a Flow-Based capacity calculation is applied</b> before the Gate Closure Time of the Day Ahead Market.</p>
<b>Article 84 -</b> Firmness in the case of Force Majeure or Emergency Situations	<p>1. In the event of a Force Majeure situation or an Emergency Situation, System Operators shall, when all other means have been exhausted, have the right to curtail Cross Zonal Allocated Capacities. In all cases, curtailment shall be undertaken in a coordinated manner having liaised with all directly affected System Operators.</p> <p>2. In the event that capacity was allocated implicitly, Central Counter Parties or Shipping Agents shall not be subject to financial damages or financial benefits arising from any imbalance created by such curtailment.</p> <p>3. In the event that capacity was allocated explicitly, Market Participants shall be entitled to compensation equal to the value of the capacity set during the Explicit Allocation process.</p>	<p>Electricity Markets results need to be completely firm under all circumstances, in particular in the event of implicit capacity allocation, in order to guarantee the firmness of market results. The solution to this problem should be undertaken by TSOs preferably using Cross-Zonal Countertrading.</p> <p>Cases of « Force Majeure » and « Emergency situation » should be clearly distinguished.</p> <p>In addition, a harmonised definition of « Force Majeure » in the Network Codes, as already recommended by the CEER.</p>	<p>1. In the event of a Force Majeure situation <del>or an Emergency Situation</del>, System Operators shall, when all other means have been exhausted, have the right <del>to curtail Cross Zonal Allocated Capacities</del> <b>to use cross-zonal countertrading</b>. In all cases, <del>curtailment</del> <b>cross-zonal counter trading</b> shall be undertaken in a coordinated manner having liaised with all directly affected System Operators, <b>solving the problem using cross-zonal counter trading and respecting always the Markets (Day-Ahead and Intraday) transactions matched during the market coupling process</b>.</p> <p>2. In the event that capacity was allocated implicitly, Central Counter Parties or Shipping Agents shall not be subject to financial damages or financial benefits arising from any imbalance created by such curtailment that will be solved by cross-border counter trading.</p> <p>3. In the event that capacity was allocated explicitly, Market Participants shall be entitled to compensation equal to the value of the capacity set during the Explicit Allocation process.</p>

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<p><b>Article 88</b> - Costs of establishing market coupling algorithms</p>	<p><i>3. System Operators, subject to agreement with the Market Coupling Operator, shall be entitled to make a contribution to the costs described in paragraph 1. In such a case, System Operator(s) shall within 2 months of receiving a forecast from the Market Coupling Operator, be entitled to provide to the relevant National Regulatory Authorities: (...)</i></p>	<p>This provision does not provide sufficient comfort to the MCO regarding the recovery of its costs. It would result from the current text that the MCO, once appointed, would have obligations to develop market coupling algorithms without having any guarantee that (a sufficient proportion of) its costs will be recoverable.</p>	
<p><b>Article 91</b> - Cost of operating the Day-Ahead and Intraday market processes</p>	<p><i>All costs incurred by the Market Coupling Operator in operating the Day Ahead and Intraday Processes as defined in Articles 52 to 57 and Articles 66 to 72 shall be recovered from Market Operators.</i></p>	<p>Market operation costs include specific costs related to the market coupling process. System Operators should contribute to these costs, as otherwise it will constitute a free-riding on the Market Coupling Operators and Market Operators infrastructures.</p>	<p><b>1. All costs incurred by the Market Operator acting each day as Market Coupling Operator in operating the Day Ahead and Intraday Processes as defined in Articles 52 to 57 and Articles 66 to 72 shall be recovered from Market Operators through their fees.</b></p> <p><b>2. System Operators, subject to agreement or direct Regulation with the Market Operators, shall be entitled to make a contribution to the costs described in paragraph 1 for what concerns the specific costs related to the market coupling processes.</b></p>

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<p><b>Article 92 -</b> Clearing and settlement costs</p>	<p><i>1. All costs incurred by Central Counter Parties shall be recoverable by means of fees or other appropriate mechanisms.</i></p> <p><i>2. Shipping Agents shall not be subject to fees nor be required to provide collateral.</i></p>	<p>There is absolutely no objective reasons why the Shipping Agents shall be exempted from fees or collateral required to ensure the clearing and settlement of cross-border positions in a safe manner and financially viable manner. Not only this would provide an undue commercial advantage to the Shipping Agent towards the Central Counter Party, but it will also create financial risks in the management of the cross-border positions, possibly in contradiction with existing regulation on financial risk management.</p> <p>In general, it is impossible to define in the Network regulation CCPs payment and collateral requirements, as this also relates to national and European laws. In addition, proposals by the Network Codes in that respect induce the risk of regulatory arbitrage between the different entities acting as CCPs today in Europe.</p>	<p><b>Delete article</b></p>

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Art.96 - Explicit allocation	2. <i>In accordance with the objectives stated in Article 61, the Continuous Trading Matching Algorithm shall avoid undue discrimination when allocating implicitly and explicitly capacity at the same time, by determining which Orders to select for Matching and which explicit capacity request to accept, according compatible ranking on price and/or time of entrance such that it maximises Economic Surplus per trade for the Intraday timeframe by allocating explicitly capacity to the best bid/ask Orders that are possible to match in accordance to time of entrance</i>	<p>There is confusion between the description of the continuous explicit allocation mechanism, which must be based on time of entrance only, and the implicit allocation mechanism, based time of entrance and on allocation to the best bid/ask energy orders.</p> <p>In addition, note that the specific function of capacity allocation corresponds to the Capacity Allocation Module rather than the matching algorithm.</p>	2. <i>In <del>accordance</del> <b>compatibility</b> with the objectives stated in Article 61, the <del>Continuous Trading Matching Algorithm</del> <b>Capacity Allocation Module</b> shall avoid undue discrimination when allocating implicitly and explicitly capacity at the same time, by determining which Orders to select for Matching and which explicit capacity request to accept, according compatible ranking on price and/or time of entrance such that it maximises Economic Surplus per trade for the Intraday timeframe <del>by allocating explicitly capacity to the best bid/ask Orders that are possible to match in accordance to time of entrance</del></i>
Art.97- Removal of explicit allocation	2. <i>Concerned National Regulatory Authorities shall approve the introduction of these sophisticated products</i>	The Market operators should be free to introduce new orders without prior regulatory approval.	<del>2. Concerned National Regulatory Authorities shall approve the introduction of these sophisticated products</del>
Art.97- Removal of explicit allocation	4. <i>The Explicit Allocation of capacity shall be removed at the latest in 2016.</i>	What is the rationale of putting a deadline to a process subject to market consultation?	



Article number	Article text	Comment	Change Proposal
<p><b>Art.98</b> - Bidding zone border-specific provisions, post-trading obligations and transparency</p>	<p>1. Capacity Traders shall accept and comply with all conditions for Explicit Allocation applicable on the interconnection. Capacity Traders shall be fully responsible and liable for the completion of the post-trading obligations related to the Cross Zonal exchanges.</p> <p>2. Capacity Traders shall be fully responsible and liable for fulfilling the financial rights and obligations relating to settlement arising from the Explicit Allocation.</p> <p>3. System Operators shall publish the relevant interconnection(s) where the Explicit Allocation is applicable, the Cross Zonal Capacity for Explicit Allocation and other relevant information.</p>	<p>The principle of the Framework Guidelines (chap. 5, p.11) according to which the use of intraday capacity is obligatory when allocated is improperly reflected in the Network Code. It is important to take it back in the code as it helps preventing capacity hoarding as long as explicit capacity allocation is allowed.</p>	<p><b>2bis. The use of intraday capacity is obligatory when allocated. Therefore, Capacity Traders will not request more intraday capacity than effectively needed. Capacity Traders will make the intraday capacity that it owns but it does not need anymore available on the secondary market.</b></p>
<p><b>Art.99</b>- Explicit requests for capacity</p>	<p>1. The Explicit request for capacity can only be submitted by a Capacity Trader for an interconnection where the Explicit Allocation is applicable, in accordance with Article 99. For each Explicit request for capacity the Capacity Trader shall submit the volume and the price to the Capacity Management Module. The price and volume of Explicit Allocated Capacity shall be made publicly available.</p>	<p>This article should not make reference to itself.</p>	<p>1. The Explicit request for capacity can only be submitted by a Capacity Trader for an interconnection where the Explicit Allocation is applicable, <del>in accordance with Article 99.</del> For each Explicit request for capacity the Capacity Trader shall submit the volume and the price to the Capacity Management Module. The price and volume of Explicit Allocated Capacity shall be made publicly available.</p>