

**ACER Public Consultation on  
Draft Framework Guidelines on  
Capacity Allocation and Congestion  
Management**

**Evaluation of Responses**

**EP-2011-E-002**

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## 1 Introduction

In April 2011, the Agency for Cooperation of Energy Regulators (ACER) launched a public consultation on the Framework Guidelines on Capacity Allocation and Congestion Management in electricity. The purpose of this consultation was to present the draft Framework Guidelines developed and published by ACER according to the provisions of the Third Package and to solicit feedback from stakeholders on the regulators' approach to date.

The Framework Guidelines are based on previous work undertaken by ERGEG. The development of the Capacity Allocation and Congestion Management Framework Guideline in electricity – which was approved in February 2011 – began end of 2009 and included a stakeholder workshop in September 2010 and a consultation in October - November 2010.

The stakeholder consultation on this final ACER draft of the Framework Guideline closed on 10 June 2011. A total of 30 responses were received, including two confidential responses. This evaluation of responses document highlights the main issues raised by the respondents, the ACER position, and, where relevant, the changes that have been made to the Framework Guidelines text to reflect comments from the consultation process.

### 1.1. Responses

The public consultation respondents represented the interests of energy companies, traders, Power Exchanges, TSOs, network cable operators, regulators and European associations. Annex 2 lists all respondents by their activity.

## 2 Responses per question

In the public consultation ACER raised four specific questions.

### **Question 1: As price-based market coupling is the mandated capacity allocation method in the day-ahead framework, should FTRs be preferred to PTRs for long-term capacity?**

Respondents' feedback: while stakeholders in general recognise the ease of use of FTRs compared to PTRs with UIOSI, moving to FTRs does not seem the highest priority for them. In particular, a lot of stakeholders emphasises the uncertainty regarding the applicable regulation (would MIFID regulation apply to FTRs?) and the consequences for TSOs and market players.

ACER's views: ACER agrees with stakeholders that moving to FTRs is not the highest priority and considers that both options should be possible. An ad-hoc ACER task force will analyse this legal issue and will deliver its conclusions by the end of 2011.

Proposed changes in the final version of the Framework Guidelines: no need for changes.

### **Question 2: Do you think allowing direct OTC access to the Capacity Management Module is important as a transitional feature?**

Respondents' feedback: while stakeholders in general do not question the one-to-one relationships between the Capacity Management Module and the Shared Order Book as a target, a large majority of stakeholders supports a direct access to the Capacity Management Module for both OTC and cross-border balancing trade as a transitional feature.

ACER's views: as for the day-ahead timeframe, a one-to-one relationship should be the target for intraday. Nevertheless, ACER recognises that the intraday market and the continuous intraday services might not be mature enough on some borders to supplant OTC and cross-border balancing trade and that it may be relevant to implement a direct access for OTC and cross-border balancing trade as a transitional feature.

A direct consequence for TSOs is that they will have to foresee this direct access feature when developing the pan-European Capacity Management Module.

Proposed changes in the final version of the Framework Guidelines: no need for changes, except to make the access to the Capacity Management Module possible for other types of trade than OTC (e.g. for cross-border balancing trade).

**Question 3: In your opinion, what would be the added-value of implementing implicit auctions on top of a continuous intraday trade mechanism?**

Respondents' feedback: there is no clear consensus on this question among stakeholders, even if a small majority of stakeholders thinks that the implementation of implicit auctions would not bring added-value and, even worse, would reduce liquidity in the intraday market.

ACER's views: as for the previous question, ACER does not want to make the implementation of implicit auctions on top of continuous intraday trade mechanism a binding feature, but only a possibility, let to the NRAs' decision, on the borders where they think this feature is important. Nevertheless, this possibility shall not cause any delay in the implementation of the continuous trading mechanism.

Proposed changes in the final version of the Framework Guidelines: no need for changes.

**Question 4: Should the Final Framework Guidelines be more explicit in the area of compensation? If you answer yes please explain.**

Respondents' feedback: a large majority of respondents asks for clarifications in the area of compensation, in particular regarding the cost recovery issue (who should bear the cost of firmness?) and the level of compensation in case of curtailment.

ACER's views: ACER is of the opinion that curtailments should only be possible for long-term transmission rights and ideally before the nomination deadline. The target for compensation is that curtailment should be equal to the day-ahead hourly price differential corresponding to the curtailed period. Of course, implementing this target supposes that NRAs are confident enough with the price references and the fact that TSOs have the appropriate tools and incentives to allocate the maximum of firm capacities in a cost-effective and cost-efficient way. Given that these conditions are not always fulfilled, there might be a need, on some borders, to impose caps on the compensation (e.g. a cap on the amount available for compensation or for curtailments known a certain time period in advance) in order to mitigate the risk for grid users.

On the contrary, after the nomination deadline, because TSOs are supposed to have a better knowledge of the constraints on the transmission network and market players less opportunity to adapt their positions, capacities (and a fortiori nominations) shall be fully firm (no possibility of caps).

Proposed changes in the final version of the Framework Guidelines: Paragraph 6.4 has been re-drafted to better reflect these views. Moreover a sentence has been re-introduced in the paragraph to say that: "Congestion rents shall be used, inter alia, for guaranteeing the firmness of allocated capacity rights, in particular through the activation of coordinated/countertrade actions."

### 3 Other issues raised during the consultation process

The responses also revealed several other issues raised by the respondents. The main issues are grouped by sections of the Framework Guidelines in the table below, alongside ACER's own views and the proposed changes in the final version of the Framework Guidelines (FG) where relevant.

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
<b>1.1 Scope</b>	
These FG should be carefully coordinated and consistent with the upcoming FG on balancing and subsequent network code(s) (NC) as the functioning and design of intraday and balancing markets are closely interrelated.	Agree. In particular, the coordination between the balancing and intraday market is essential.
Need to define a clear mandate to TSOs in order to ensure that the network codes meet the requirements of the market and the regulators.	Agree. A paragraph has been added in this section to remind that ACER will evaluate the degree of compliance of the NC with the FG and the fulfilment of several objectives, including the completion and functioning of the internal market.
Need for clarification regarding the role of ACER with regard to cross-border issues.	Agree. A dedicated section (section 1.4) has been introduced to clarify the role of ACER.
Governance issues: <ul style="list-style-type: none"> <li>- Need for a clarification regarding the hierarchy of different pieces of legislation (CM Guidelines, FG, NC, National codes, etc.);</li> <li>- Need for clarification for the change management process.</li> </ul>	Agree. The governance issues, which are cross cutting in all FG, will be dealt with separately.

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
<p>Avoid too prescriptive descriptions of market designs to allow for evolving intraday markets. Further, governance, transparency and integrity of markets should be dealt with elsewhere and not in these FG.</p>	<p>Agree. The FG do not address the requirements on transparency and information management in the electricity market. As regards the governance in the intraday market, the final version of the Framework Guidelines recognises the leading role of TSOs (via ENTSO-E) in the process to develop and implement the pan-European target model and ask ENTSO-E to take into account the role of PXs, in particular in developing the matching rules and sophisticated products.</p>
<p>The scope of these FG should only relate to cross-border exchanges.</p>	<p>Partly agree. The NC adopted according to these FG will apply to CACM between the zones in the EU electricity market.</p>
<p>It should be made clear whether the Framework Guidelines apply to UK Offshore Transmission Owners (OFTO's), and to merchant HVDC interconnectors.</p>	<p>Disagree. The FG and NC apply by definition to all interconnections except for those aspects where they are granted a derogation according to Article 17 of Regulation 714.</p>
<p><b>1.2 Entry into force of the Network Code(s) and roadmap</b></p>	
<p>Need to ensure consistency across Europe. FG should not allow scope for national or regional markets to continue, with design features or rules as variations around the target model.</p>	<p>Partly agree. The need to ensure consistency across Europe is indeed essential. Variations around the target model should be possible as long as they do not hamper the market integration process and the completion of the internal electricity market.</p>
<p>Need for detailed roadmaps with complete descriptions for the implementation of all the provisions included in the NC, and covering the entire geographical scope of the IEM, are hardly achievable at the code drafting phase and are not recommended by ENTSO-E. In addition, they have to be agreed among all the parties and stakeholders involved, upon clear indications from the Commission, ACER and NRAs.</p>	<p>Partly agree. The final version of the FG only requires that the CACM NC shall set out deadlines for the implementation, for the different timeframes and across the European Union, of the target model for CACM as defined in these Framework Guidelines, with 2014 as the overall deadline for the completion of the Internal European Market. Nevertheless, ACER emphasizes that detailed roadmaps will have to be developed and agreed among all stakeholders in parallel to the code drafting phase in order to meet the 2014 deadline. The ACER Electricity Stakeholder Advisory Group (AESAG) and Regional Initiative processes are coordinating their effort to elaborate detailed roadmaps for the implementation of four key cross-regional projects for the completion of the Internal Electricity Market. These roadmaps should be validated in September 2011 and shall be taken into account by ENTSO-E when drafting the corresponding codes.</p>

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
<p>Recognition by ACER of the considerable challenges involved to implement the agreed Target Models in parallel to the development of the NC on CACM. Need for ACER to coordinate this process.</p>	<p>Agree. This is exactly the purpose of the AESAG process chaired and coordinated by ACER to define concrete, ambitious but realistic roadmaps for the implementation of the target model for CACM.</p>
<p>Need to take into account the particular characteristics of national and regional markets. In particular, the CACM requirements for day ahead and intraday network codes and the related requirement to implement their provisions by 2014 will therefore pose significant challenges for the SEM and will inevitably require changes to the design of the SEM.</p>	<p>Partly agree. Taking into account the particular characteristics of national and regional markets shall not be detrimental to the market integration process and the completion of the internal electricity market. A new sentence will be introduced in this section to allow for a specific timescale for the SEM to adopt the CACM requirements of the target model for CACM provided some conditions are met.</p>
<p><b>1.3 Definitions and references</b></p>	
<p>It is of utmost importance to ensure that the CACM NC establishes common definitions for key terms. Due to the complex nature of the energy market, clarity of content must be ensured at all times.</p>	<p>Agree.</p>
<p>A comprehensive and overarching glossary of terms and definitions would provide additional clarity and ensure consistency.</p>	<p>Agree. The CACM NC shall contain a section with a glossary and definitions.</p>
<p><b>2.1 Capacity Calculation</b></p>	
<p>Introducing new methods, in particular flow-based methods, shall be done only after thorough consultation with market participants and intensive testing. Clear and substantial benefits have to be demonstrated before flow based allocation is introduced.</p>	<p>Agree. The CACM NC shall foresee that the practical usage of the FB calculation and allocation starts only after market participants have been consulted and allowed sufficient time for their preparation and for a smooth transition to the new arrangement</p>
<p>Longer maturity transmission products should continue to be sold on an ATC basis, even if day ahead and intraday congestions are managed through flow-based allocation methods.</p>	<p>Agree. FB should be preferred to ATC method only for short term capacity calculation although long- and short-term capacity calculation also need to be compatible.</p>



Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
The FB method is not appropriate for the long term.	Agree. FB should be preferred to ATC method only for short term capacity calculation although long- and short-term capacity calculation also need to be compatible.
A "thoroughly" description of ATC and FB methods in the NC is too far reaching, given the fact that capacity calculation is a domain where progress in the last few years has been rapid and recognising that the European TSOs are continuously working on further improvements either on a regional basis or together with the stakeholders.	Agree. The word "thoroughly" has been removed from the paragraph 2.1.1.
<b>2.2 Definition of zones for Capacity Allocation and Congestion Management</b>	
The high-level criteria in the FG are insufficient or too vague to actually evaluate and decide on a possible re-alignment of zones. It would be better if a more detailed elaboration of the market efficiency criteria is included.	Agree. More details are provided in section 2.2.
When addressing the definition of bidding zones, costs/benefits analyses and tight consultation of market participants shall be conducted under NRAs scrutiny to ensure that these decisions effectively lead to increased overall economic efficiency, taking into account possible negative impacts of smaller bidding zones.	Agree. Each NRA shall assess the delimitation of zones against the criteria of overall market efficiency. In case a change in the zone delimitation is foreseen, it is of utmost importance that market participants be consulted and have sufficient time to prepare.
"Structural congestion" to be defined more tightly and always be reasoned. Reporting information about congestions also to the market players.	Agree. This definition shall be provided in the NC. Reporting information about congestion to the market players is a transparency requirement, which is not addressed in these FG.
In order to reach a single European market, the objective should be to establish larger zones and not smaller zones.	Partly agree. The FG do not make an assessment in terms of a preferable size of zones, but in terms of criteria. The size of zones should reflect the structural congestions in the transmission network and meet market efficiency criteria.

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
Zones should have comparable sizes and be constituted either by countries or by parts of countries ensuring the most efficient grid use possible.	Partly agree. The size of zones should reflect the structural congestion in the transmission network and meet market efficiency criteria.
These zones should be stable in time and coherent for all timeframes.	Agree. The CACM NC shall foresee stable and robust zones over time.
A re-assessment of the zones every 5 years would be sufficient. Additional assessments /analyses could be triggered by significant change in network topology or patterns.	Disagree. A more frequent analysis of the zone delimitation (every 2 years) aims at tracking and handling more rapidly significant changes in network topology or generation and consumption patterns. Such analysis could be annexed to the Ten Year Network Development Plan (TYNDP).
Definition of zones should be approved by NRAs.	Agree. The section 2.2 has been re-drafted to introduce explicitly an approval of the definition of zones by NRAs.
<b>3.1 Capacity allocation methods for the day-ahead market</b>	
The sentence "Calculated zonal prices shall differ only in the case of congestion between the concerned zones" should be reworded to take into account the impact of implementation of Flow-Based, ramping constraints, inclusion of losses on interconnectors.	Agree. This sentence has been re-drafted to take into account these aspects.
A reference to adequate harmonization of Day-ahead gate closure times is recommended.	Agree. A sentence has been added to require harmonisation of day-ahead gate closure times.
<b>3.3 Firmness</b>	

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
All cross-border transactions must be absolutely firm.	Agree.
<b>4.1 Capacity allocation methods for the forward market</b>	
Both PTRs with UIOSI and FTRs can co-exist.	Agree. The Framework Guidelines provide for both options
Recognise the ease of use of FTRs, but also believe that there is still a place for PTRs for long term capacity allocation, especially where price coupling has not yet been adopted.	Agree. The Framework Guidelines provide for both options.
For long term capacity allocation, we do not think moving to FTRs is the main priority. As a first step we would prefer physical transmission rights and a proper implementation of UIOSI mechanisms. On the other hand, there is some uncertainty over how could impact on the FTRs some of the planned legislative proposals on financial legislation.	Agree. See ACER's views regarding responses to Q1 in chapter 2 of this document.
The FG must impose allocation of FTRs with "obligation" (= "obligatory use").	Disagree. The CACM NC shall define the nature of FTR in terms of options or obligations.
Importance of harmonizing the products for the long-term capacity allocation applied by the TSOs for all the borders within the whole Europe.	Agree. The CACM NC shall foresee a harmonised set of rules for borders where PTRs or FTRs are applied. The CACM NC shall also foresee more harmonisation of the nomination rules, deadlines and processes.
No need for on a EU-wide single platform for long term nomination in the FWGL at this stage	Partly agree. The requirement to have a single platform for the nomination of long-term transmission rights has been removed from the final version of the FG. Nevertheless, the final FG requires that: "The CACM Network Code(s) shall also foresee more harmonisation of the nomination rules, deadlines and processes."

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
<p>The establishment of one single platform for the nomination of long-term transmission rights (PTR) is not seen as a market improvement and therefore an unnecessary requirement for TSOs.</p>	<p>Partly agree. The requirement to have a single platform for the nomination of long-term transmission rights has been removed from the final version of the FG. Nevertheless, the final FG requires that: "The CACM Network Code(s) shall also foresee more harmonisation of the nomination rules, deadlines and processes."</p>
<p>The CACM FG must mandate all TSOs to issue FTRs or PTRs between adjacent bidding zones. The sentence "<i>unless appropriate cross-border financial hedging is offered in liquid financial markets on both side of an interconnector</i>" should be removed.</p>	<p>Partly agree. Variations around the target model should be possible as long as they do not hamper the market integration process and the completion of the internal electricity market.</p>
<p>Some flexibility is necessary and an obligation should not be considered leading to replace hastily existing products if they suit market needs better than FTRs.</p>	<p>Partly agree. Variations around the target model should be possible as long as they do not hamper the market integration process and the completion of the internal electricity market.</p>
<p><b>4.2 Time frames, volumes and secondary market with relevance for PTR and FTR</b></p>	
<p>No need for the establishment of a secondary platform operated by the TSO. A TSO organised registry, to which market participants can notify a bilaterally made secondary trade in, is fully sufficient.</p>	<p>Agree. The fact that the CACM FG request that the TSOs provide a platform does not necessarily mean that this platform should be operated by TSOs. This activity could indeed be delegated to a service provider.</p>
<p>Proposal for a limitation of firm long-term PTRs to one third of the available capacity.</p>	<p>Partly agree. NRAs shall approve the principles for sharing capacity between the different timeframes.</p>
<p>Proposal for allocating the maximum available capacity to long-term timeframes, including several years in advance</p>	<p>Partly agree. The FG do not preclude the allocation of multi-year transmission rights. NRAs shall approve the principles for sharing capacity between the different timeframes.</p>
<p>Proposal to organise short-term (week-ahead and day-ahead auctions) explicit auctions, on top of long-term explicit auctions and day-ahead market coupling.</p>	<p>Disagree. While the FG do not preclude the organisation of short term explicit auctions on top of long-term explicit auctions and day-ahead market coupling, it is likely that such short term auctions would not pass the cost-benefit analysis. More efficient and liquid secondary capacity markets or CfD-type products (in complement to long-term PTR or FTR) might be a more appropriate answer to address this type of concerns.</p>

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
<p>The role of NRAs should be to approve the methodologies applied to calculate volumes of capacity and sharing of capacity among different timeframes, but not the values themselves.</p>	<p>Disagree. The NRAs' approval of both values and methodologies shall be seen as a prerequisite for the implementation of appropriate incentives to allocate the maximum of firm capacities in the most cost-effective and cost-efficient way.</p>
<p><b>5 Intraday Capacity Allocation – 5.1 A pan-European intraday platform</b></p>	
<p>Creating a common capacity matrix to pool all available cross-border capacity by the TSOs is essential, in order to facilitate the urgently needed possibilities balancing on a market based system.</p>	<p>Agree. The capacity management module shall provide a pan-European capacity management module with up-to-date and real-time information on available transmission capacity. This capacity management module needs to be coordinated with the general capacity calculation for other timeframes (in particular day-ahead).</p>
<p>The relationship between TSOs and exchanges for day ahead and intraday must be at arm's length, based on a clear definition of respective roles and responsibilities.</p>	<p>Partly agree. The final version of the Framework Guidelines recognises the leading role of TSOs (via ENTSO-E) in the process to develop and implement the pan-European target model in day-ahead and intraday. It also requests TSOs to take into account the role of PXs, in particular in the development of the matching rules.</p>
<p>Confusion between monopolistic activities and market activities.</p>	<p>Partly agree. The final version of the Framework Guidelines has been re-drafted to take into account the role of PXs, in particular with respect to the development of matching rules and sophisticated products. The final version of the FG nevertheless recognises the leading role of TSOs (via ENTSO-E) in the process to develop and implement the pan-European target model.</p>
<p>Centralising all Intra-Day trading with SOB ensures also best execution of orders.</p>	<p>Agree. The CACM NC shall ensure that the shared order book function is provided with the bids submitted to all participating PXs.</p>
<p>No evidence that implementing implicit auctions on top of continuous trading will necessarily improve the intra-day market.</p>	<p>Agree. The compatibility and added-value of implementing implicit auctions on top of continuous trading still needs to be assessed. In any case, the implementation of implicit auctions shall be seen as a potential complementary system to continuous trading and shall not delay the implementation of the latter.</p>

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
<p>Implicit auctions are not efficient at the intraday timeframe because market participants' main requirement is flexibility.</p>	<p>Partly agree. The compatibility and added-value of implementing implicit auctions on top of continuous trading still needs to be assessed. In any case, the implementation of implicit auctions shall be seen as a potential complementary system to continuous trading and shall not delay the implementation of the latter.</p>
<p>Support for implicit auctions as they will make it easier to obtain capacity.</p>	<p>Disagree. The compatibility and added-value of implementing implicit auctions on top of continuous trading still needs to be assessed. In any case, the implementation of implicit auctions shall be seen as a potential complementary system to continuous trading and shall not delay the implementation of the latter.</p>
<p>Implicit auctions can be a good solution to achieve a reliable pricing for the intraday transmission capacity, especially in case of revision of intraday capacity values (e.g. additional capacity) or under sudden increases of liquidity (at the beginning or during the continuous trading).</p>	<p>Partly agree. The compatibility and added-value of implementing implicit auctions on top of continuous trading still needs to be assessed. In any case, the implementation of implicit auctions shall be seen as a potential complementary system to continuous trading and shall not delay the implementation of the latter.</p>
<p>Implicit intra-day auctions are preferable compared to continuous trading, provided they ensure sufficient flexibility to market participants.</p>	<p>Disagree. In any case, the implementation of implicit auctions shall be seen as a potential complementary system to continuous trading and shall not delay the implementation of the latter.</p>
<p>Continuous trading First Come First Serve, (implicit energy and capacity in order to prevent capacity hoarding) without any auction, is the preferred solution to introduce a flexible and efficient ID market.</p>	<p>Partly agree. The compatibility of a continuous trading system with a reliable pricing of intraday capacity reflecting congestion still needs to be assessed.</p>
<p>Continuous trading for capacity together with implicit auctioning is likely to have an overall beneficial impact on the intra-day market, provided that as a pre-condition a proper capacity pricing and remuneration methodology can be agreed and implemented which addresses the particular risk profile of merchant interconnectors.</p>	<p>Partly agree. The compatibility and added-value of implementing implicit auctions on top of continuous trading still needs to be documented. In any case, the implementation of implicit auctions shall be seen as a potential complementary system to continuous trading and shall not delay the implementation of the latter.</p>
<p>In any case, the effect of capacity pricing mechanisms on continuous markets should be carefully assessed.</p>	<p>Agree. The compatibility of a continuous trading system with a reliable pricing of intraday capacity reflecting congestion still needs to be assessed.</p>

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
<p>For the sake of clarity, recommend to use the wording "pan-European mechanism" or "solution" instead of "pan-European platform" to avoid any assumption at this stage on the architecture of the intraday target model.</p>	<p>Agree. The wording "pan-European platform" has been replaced by "pan-European target model" or "mechanism".</p>
<p>Recommends that final FG state that NC shall consider harmonization of Gate Opening and Gate Closure Times that meet the requirements of variable renewable energy integration while maintaining system security and granting a level playing field in matching trades between the different intraday market areas.</p>	<p>Agree. The final version of the FG foresees that: "The CACM NC shall define a harmonised gate closure time for intraday cross-zonal trade and ensure that generation scheduling processes are compatible with the intraday target model to facilitate cross-zonal trade."</p>
<p>A one-to-one relationship between a pan-European capacity platform and a particular trading system (here, the Shared Order Book) would entail serious issues of discriminatory access to the capacity, without proven economic justification in terms of market efficiency.</p>	<p>Disagree. As for the day-ahead timeframe, a one-to-one relationship should be the target for intraday. Nevertheless, ACER recognises that the intraday market and the continuous intraday services might not be mature enough on some borders to supplant OTC and cross-border balancing trade and that it may be relevant to implement a direct access for OTC and cross-border balancing trade as a transitional feature.</p>
<p>In order to be efficient, non-discriminatory, and avoid complications in terms of governance, it is crucial that the TSOs platform managing the cross-border capacity clearly entails the function of capacity allocation (and not only provides information on the ATC).</p>	<p>Disagree. While the function of capacity allocation is clearly TSOs' responsibility, this does not prevent them from delegating the provision of this function to a third party (PXs).</p>
<p>Non-harmonization of capacity allocation rules is the main impacting factor for liquidity. For example, different nomination lead-time for cross-border capacity allocation split local markets at the time interests for cross-border trading could be the highest (closer from real-time).</p>	<p>Agree. The final version of the FG foresees that: "The CACM Network Code(s) shall define a harmonised gate closure time for intraday cross-zonal trade and ensure that generation scheduling processes are compatible with the intraday target model to facilitate cross-zonal trade."</p>
<p>Importance of harmonisation of scheduling deadlines.</p>	<p>Agree. The final version of the FG foresees that: "The CACM NC shall define a harmonised gate closure time for intraday cross-zonal trade and ensure that generation scheduling processes are compatible with the intraday target model to facilitate cross-zonal trade."</p>

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
<p><b>5.2 Transitional arrangements</b></p>	
<p>OTC access to the CMM should become a binding feature for the interim step for all the borders in Europe.</p>	<p>Disagree. As for the day-ahead timeframe, a one-to-one relationship should be the target for intraday. Nevertheless, ACER recognises that the intraday market and the continuous intraday services might not be mature enough on some borders to supplant OTC and cross-border balancing trade and that it may be relevant to implement a direct access for OTC and cross-border balancing trade as a transitional feature.</p>
<p>Continuous trading platform services are not sufficiently mature to supplant OTC trading and TSO services (such as transit functions) at this stage. A move towards platform-based services should occur only if an SOB can efficiently deliver the services and provide overall added value to the market.</p>	<p>Partly agree. ACER recognises that, on some borders, the intraday market and the continuous intraday services might not be mature enough to supplant OTC and cross-border balancing trade. This is why the FG foresee the possibility to have direct explicit access for these types of trade as a transitional feature. The FG also foresees that "On borders where explicit OTC access has been allowed, if it is broadly accepted that sophisticated products meet the needs of market parties, they shall replace direct explicit OTC access to the capacity. The removal of direct explicit OTC access for each border shall be subject to consultation with market parties and then approval of the relevant NRAs."</p>
<p>For cross-border intraday, the interim step shall allow a direct OTC access to the CMM on all borders.</p>	<p>Disagree. Only if NRAs agree on it and only on the borders where the intraday market and the continuous intraday services might not be mature enough to supplant OTC and cross-border balancing trade.</p>
<p>OTC access is not necessary. If OTC access would be needed for a transitional period then it should be applied only to those markets where needed, not automatically to all markets.</p>	<p>Agree.</p>
<p>This regulation should encourage competitive and non-discriminatory access to the capacity and not be restrictive or prescriptive on the methods to get access to it, and even worse, on the trading venues.</p>	<p>Disagree. As for the day-ahead timeframe, a one-to-one relationship should be the target for intraday. Nevertheless, ACER recognises that the intraday market and the continuous intraday services might not be mature enough on some borders to supplant OTC and cross-border balancing trade and that it may be relevant to implement a direct access for OTC and cross-border balancing trade as a transitional feature.</p>



Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
<p>All capacity should be channelled to the SOB. If, as a transitional feature, OTC trading is made available, capacity reservations for OTC trades must be reported to the SOB for transparency.</p>	<p>Agree. The CACM NC shall ensure that all cross-zonal intraday capacity is allocated via this mechanism. Where applicable, as transitional arrangement, the capacity management module may provide direct explicit access (e.g. for bilateral supply of OTC contracts) to the capacity. As a minimum, the price and volume of any OTC contract allocated intraday capacity shall be made transparent.</p>
<p>Recommends to replace the word "OTC" by the word "explicit" access to the CMM to make room to the different possibilities of accessing the CMM in the interim listed above.</p>	<p>Agree. The section has been re-drafted accordingly.</p>
<p><b>6.4 Capacity products co-existence and firmness</b></p>	
<p>A clear definition of firmness is still needed.</p>	<p>Agree. The section 6.4 has been re-drafted. See ACER's views regarding the responses to Q4 in Chapter 2 of this document.</p>
<p>The Framework Guidelines should be more specific on the subject of compensation which represents a significant risk to merchant interconnector operators given the lack of options available to us to recover costs.</p>	<p>Disagree. The same conditions shall apply to merchant interconnector operators unless they are/have been granted specific derogations.</p>
<p>The simplest procedure is to let the settlements take place, even if the XB-link has an unplanned outage. It would be very cumbersome to interrupt the settlements – and thereafter having to compensate the parties.</p>	<p>Agree. After the nomination deadline, physical firmness is the preferred approach.</p>
<p>Mechanism for TSOs buying back transmission rights any time in the period following an explicit auction and prior to the D-1 timeframe.</p>	<p>Agree. The FG do not preclude the possibility for TSOs to buy back capacities. This possibility could be part of an overall incentive scheme to incentivise TSOs to allocate the maximum of firm capacities in the most effective and cost-efficient way.</p>
<p>Need to reintroduce a paragraph regarding the interaction between firmness and congestion revenues.</p>	<p>Agree. A sentence has been introduced in section 6.4. which states that: "Congestion rents shall be used, inter alia, for guaranteeing the firmness of allocated capacity rights, in particular through the activation of coordinated re-dispatching/countertrade actions."</p>

Respondents' feedback on the FG	ACER's views and proposed changes in the FG where relevant
<p>TSOs have to ensure firmness of capacity products but for the implementation of a market spread compensation scheme at any timeframe, an adequate balance between risk for market participants and risk for the systems has to be achieved. Utilization of caps either on the price spread or on the amount of compensations is strongly recommended.</p>	<p>Agree. Section 6.4 has been re-drafted to foresee the possibility, on some borders, to impose caps on the compensation (e.g. a cap on the amount available for compensation) in order to mitigate the risk for grid users.</p>
<p>TSOs are not allowed to obtain any financial benefits from applied congestion management mechanisms (according to Reg. 714/2009) and therefore they should not be exposed to any costs resulting from them. Regardless of whether firmness is ensured physically or financially, the distribution of costs falling to TSOs must ultimately be recovered from the revenues resulting from the allocation of interconnection capacity in accordance with art. 16.6 of Reg. 714/2009 or by appropriate and timely regulatory settlements in such a way that the financing of the companies and consequently network security as well as investments in planned grid enhancement are not at risk.</p>	<p>Disagree. The definition and implementation of appropriate incentives to foster the market integration process could expose TSOs to some costs and financial benefits resulting from the application of congestion management methods.</p>

## **Annex 1 – ACER**

The Agency for the Cooperation of Energy Regulators (ACER) is a European Union body established in 2010. ACER's mission is to assist National Regulatory Authorities in exercising, at Community level, the regulatory tasks that they perform in the Member States and, where necessary, to coordinate their action. The work of ACER is structured according to a number of working groups, composed of ACER staff members and staff members of the national energy regulatory authorities. These working groups deal with different topics, according to their members' fields of expertise.

This report was prepared by the ACER Electricity Network and Market Task Force (AENM TF) of the ACER Electricity Working Group (AEWG).

## Annex 2 – List of Respondents

Organisation	
Bdew	Association
Bne	Association
CER-SEM	Regulator
Danske Commodities	Trader
EDF	Energy company
Edison	Energy company
EFET	Association
EirGrid	TSO
ELCOM	Regulator
energie-nederland	Association
Entso-E	Association
EON	Energy company
EPEX-Spot	Power exchange
Eurelectric	Association
Europex	Association
EWEA	Association
FSE	Association
IBEC CBI	Association
Iberdrola	Energy company
IFIEC	Association
J.P.Morgan	Trader
Nordenergi	Energy company
RED Electrica	TSO
SSE UK	Energy company
Swissenergy	Energy company
Swissgrid	TSO
VERBUND	Association
VIK	Association
EDF-ENERGY	Energy company
AES	Energy company
Confidential	Confidential
BRITNED	Cable operator
Endesa Ireland	Energy company
ESB	Energy company
Fortum	Energy company
Confidential	Confidential
Gas Natural Fenosa	Energy company
IWEA	Association
Moyle Interconnector	Cable operator
NAET	Association

NEAI	Association
Nord Pool Spot & NASDAQ OMX	Power exchange
Oesterreichs Energie	Association
PAWEX	Association
RWE Supply & Trading	Energy company
SEWRC	Regulator
Shell Energy Europe	Trader
Vattenfall	Energy company
EnBW Trading	Trader