Public consultation on the Capacity Allocation Mechanisms Network Code: achievements and the way forward

A Introduction

With gas markets being impacted by a global pandemic (2020) and a European energy crisis (2022), the resilience of the current market rules (also known as “network codes”) has been tested. Although they have ensured a proper market functioning (see ACER’s Market Monitoring Reports and Congestions Reports), lessons have yet to be learnt to further enhance market resilience.

The European gas market must also be ready to align with the latest policy and technological developments, guaranteeing the Green Deal’s decarbonisation targets can be met.

Against this background, the latest European Gas Regulatory Forum has emphasised the importance of having gas market rules which can adequately reflect this evolution, and therefore prompted for the revision of the capacity allocation mechanisms network code (CAM NC).

As part of ACER’s review of the Network Code for Capacity Allocation Mechanisms (‘CAM NC’), ACER is assessing the achievements of CAM NC and scoping the areas of improvement.

ACER invites stakeholders to actively participate in its review by providing feedback on the scoping of the areas of improvement as well as making reasoned proposals on further areas of improvements that could be considered for eventually amending the CAM NC.

The ACER CAM NC scoping document (‘scoping document’) contains ACER’s review of the market rules regulating gas transmission capacity allocation in Europe and proposes a scoping of areas of improvements based on ACER’s work on CAM. It serves as the main consultation document to which the questions in this survey refer.

Please send your response to the questions by 5 January 2024, 12:00 noon (CET).

We invites stakeholders to bring forward concrete and succinct reasonings. Overly lengthy responses may not be processed.

The survey was corrected on 17 November for missing questions.

The stakeholder responses will be published on the Agency’s website. If you include commercially sensitive information in your reply, please mark the parts of your answer that are confidential as well as provide a non-confidential version for publication purposes.
Please confirm that you have read the Data Protection Notice

B General information

1 Name and Surname: 

2 Email 

3 Company: 

BDEW - German Association of Energy and Water Industries

4 Country:
- AT - Austria
- BE - Belgium
- BG - Bulgaria
- HR - Croatia
- CY - Cyprus
- CZ - Czechia
- DK - Denmark
- EE - Estonia
- FI - Finland
- FR - France
- DE - Germany
- EL - Greece
- HU - Hungary
- IE - Ireland
- IT - Italy
- LV - Latvia
- LT - Lithuania
- LU - Luxembourg
- MT - Malta
- NL - Netherlands
- PL - Poland
- PT - Portugal
- RO - Romania
- SK - Slovak Republic
- SI - Slovenia
- ES - Spain
- SE - Sweden
5 Please specify if other:

6 Business field:
- TSO
- DSO
- Shipper/trader
- Association
- Other

7 Please specify if other:

C Consultation documents

Download ACER's Scoping document

Download the cover note to the scoping document

The following questions are organised per chapter and article of the CAM NC, first depicting ACER's review included in the scoping document, a question on how you assess the need for a change in the article, and a question inviting you to elaborate your answer with specific elements.

D CAM NC Preamble

<table>
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<tr>
<th>Policy paper reference</th>
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| ACER Special Report on addressing congestion in North-West European gas markets | • To maximise technical capacity as well as (bundled) firm capacity (cf. p. 15-17)  
  • A further strengthening of coordination between neighbouring system operators and regulatory authorities is needed, for instance, by harmonising calculation methodologies (cf. p. 16) | yes                 |
| N/A                                             | Clear recital or New article on CAM principles  
  • The core principles of capacity allocation mechanism must be explicitly defined in the NC. Allocation capacity mechanisms must guarantee the well-functioning of the internal market (GTMs, guarantee the gas flows, not bottlenecks, bundled offer, cascading principle, market-based allocation, etc.). | yes                 |
8 Do you agree with ACER's review of the CAM NC Preamble and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

9 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

Generally, harmonizations and standards are crucial for the European internal market. In this specific case, there is a risk that harmonization may be based on the lowest common denominator, ultimately leading to a deterioration of capacity conditions in some countries. Overall, the German Association of Energy and Water Industries (BDEW) sees no added value in harmonizing the calculation method at the European level, as it is already established, for example, in Germany. The third point regarding 'CAM principles' is assessed more neutrally and is therefore not necessarily essential. However, it is likely that formulating it would not be detrimental either.

E CAM NC, Chapter I,
General provisions (Articles 1-3)

CAM NC
Article 1 – Subject matter

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10 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
11 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

BDEW also sees no potential for improvement in this article compared to its current formulation.

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<td>N/A</td>
<td>“When implicit allocation methods are applied, NRAs may decide not to apply article 8 to 37.” (Article 5(2) of CAM NC) • Make sure mechanisms of implicit allocation (IA) are consistent with the key principles of the CAM NC, in particular the principle of capacity bundling • To avoid distortions in the functioning of the Internal Market, CNMC considers that all capacity allocation mechanisms must respect the core principles of CAM. Consequently, the CAM NC should be revised article by article (in particular, art.8 to art.37) to analyse the consequences of not applying those articles when implicit allocation is in place. • Coordination when deciding and bundling as two key principles also for IA (CAM 19)</td>
<td>yes</td>
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12 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

13 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

In Germany, implicit auctions are currently not applied, except for a minor exception in the southern direction towards Austria. The explanations provided do not clearly articulate the true objectives of the ACER proposal. In general, it can be stated that where it is implemented, the process is also satisfactory.
Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation.

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

15 Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?
BDEW would like to note that the term 'technical capacity' is already defined in Regulation No. 715/2009, and capacity is also listed in the amended Gas Market Directive. Introducing a new definition for the same term should be avoided. The point regarding the 'implicit allocation method' is already a lived reality in the EU, and therefore, a written incorporation is welcomed.

F CAM NC, Chapter II
Principles of cooperation (Articles 4-7)

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* 16 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- [ ] Strongly agree
- [x] Agree
- [ ] Neutral
- [ ] Disagree
- [ ] Strongly disagree

An amendment may further improve the market functioning and better capacity allocation.

* 17 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

BDEW also sees no potential for improvement in this article compared to its current formulation.
18 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

BDEW also sees no potential for improvement in this article compared to its current formulation.
Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
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- Disagree
- Strongly disagree

21 Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?
BDEW sees no concrete advantage in specifying or even aligning the ‘dynamic recalculation’. It is also questionable what the “dynamic recalculation” refers to.

1. Maximization monthly or
2. Yearly recalculation

Regarding a): it is safe to say, that short-term events (changes of weather-conditions, etc.) are already considered in the different product-types.

Regarding b): the capacity calculation is a very complex process with a lot of different input factors which have to be taken into consideration. It takes several months to arrive at reliable results. Therefore, a higher frequency than once a year seems to be impractical.

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• 22 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

  - Strongly agree
  - Agree
  - Neutral
  - Disagree
  - Strongly disagree

• 23 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

  BDEW also sees no potential for improvement in this article compared to its current formulation.

G CAM NC, Chapter III
Allocation of firm capacity products (Articles 8-18)
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| FUNC 01/2020 “Greater flexibility to book firm capacity at IPs” - Issue Solution and Issue Solution Supporting Note | Possibly revisit the set-aside rules of points (6) and (7)  
• ACER and ENTSOG did consider whether there would be a need to revise also the set-aside rules, in order to avoid capacity for the shorter-term products from being sold-out. No concrete proposal has been put forward as the current wording of the Article already allows for greater shares to be set aside. It can however be considered for the official amendment process whether higher volumes of capacity should be set aside, and/or if a dedicated set-aside rule should be applied to each short-term product.  
(Points 1 – Issue Solution Supporting Note Evaluation of FUNC issue 01/2020 “Greater flexibility to book firm capacity at IPs” 2020, p. 16) | maybe |

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| FUNC 04/2019 “Auction restrictions NCG” | Relevance to be re-assessed  
• “Given the auction-based capacity allocation according to CAM NC at IPs and the deviating capacity allocation process at DEPs based on national law, capacity cannot be allocated in a straightforward manner as comparing capacities. Based on that, a reallocation of capacities from IP to DEP might be appropriate as an interim measure for such exceptional cases, if TSOs are guided by a number of predefined criteria:  
• The procedural dead line enables a fast execution of capacity offers via IP or DEP  
• There is a transparent design, but there is neither perfection for comparing schemes for capacity of both IP & DEP process nor for the usage of capacity. We need to demand for IP & DEP  
• Capacity may be reallocated to the DEP and will be re-allocated again to the IP if it is no longer needed at the DEP  
• The network operator offering the capacity must cost-efficient measures to meet the new cost of capacity. The network operator must be cost-efficient and must make sure to be cost-efficient.  
• A reallocation of available capacity is the efficient result of an alignment between the involved network operators of the market area involved by the re-allocation.  
• The highest level of transparency is assumed which involves a yearly alignment meeting between relevant parties, in particular the relevant regulatory authorities (RAAs) and network operators of the market area.  
• The issue is important, but needs to be investigated further concerning the cost of capacity and the potential for the overall market efficiency of capacity.” (Auction Restrictions in the NCG Market Area Issue Solution Note 2020, p. 1-2) | maybe |

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24 Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

25 Please elaborate on why you do agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?
The implementation ultimately depends on the decision regarding the ‘auction calendar’. The set-aside rules should also apply for the UPA auctions. Thus, reserved capacities may not be offered in the additional UPAs for the same product runtime.

CAM NC

Article 9 – Standard capacity products

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Relation with NC TAR – setting the tariff for the product

26 Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

27 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

Generally, we welcome the possibility of advanced booking of day-ahead products in order to align capacity with the trading product balance of month. Nevertheless, we disagree to implement a new BoM product but instead favor to have an BoM auction (daily capacity bundled for the remaining days of the month). This would be more efficient overall than introducing a new balance-of-month product, which would also impact the NC TAR and result in significantly more effort for the same objective pursuit. This is the reason why we reject the introduction of a new standard capacity product in its originally proposed form.
• 28 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

• 29 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

BDEW also sees no potential for improvement in this article compared to its current formulation.
Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

In general, all points regarding additional auctions are feasible, but they come with associated costs. A cost-benefit analysis should be conducted beforehand to provide transparency. The runtime of products offered at the same time should not be overlapping. Furthermore, the prescribed sequence of ACA before UPA is positive. We especially support weekly auctions UPAs for capacity bookings with duration longer than a month.
32. Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe=amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

33. Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

Please see answer 31 above.
34 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

35 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

In relation to the additional booking opportunities, as outlined in response 27, we have emphasized that a more straightforward implementation a combined auctioning of remaining daily capacities of the respective month is more advantageous compared to introducing a new standard capacity product. We agree with the fourth point; there should be the option for advanced bookings for monthly products.
Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- **Strongly agree**
- **Agree**
- **Neutral**
- **Disagree**
- **Strongly disagree**

Please see our answer to question 27 and 35.

Please see our answer to question 27 and 35.
38 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

39 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

Rolling balancing of month capacity auctions is given higher priority. If the proposed rolling day-ahead capacity auctions can be implemented with minimal effort and costs, they would also be considered a 'nice to have' addition.
40. Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe=amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

41. Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

We are indifferent to the proposal of a time delay for the described WD24.
42 Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

   An amendment may further improve the market functioning and better capacity allocation

   - Strongly agree
   - Agree
   - Neutral
   - Disagree
   - Strongly disagree

43 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

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BDEW attaches special importance to additional booking opportunities and the proposal to Art. 16.
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**44** Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

**45** Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

BDEW would like to outline some considerations regarding the individual points. The need to adjust price steps in an ongoing auction can be minimized through a well-defined price step structure established in advance. Auctions that last for extended periods are error-prone and resource-intensive, so the voluntary adjustment through a mechanism in exceptional cases is noteworthy. However, BDEW would like to point out that the ‘joint’ coordination between TSOs is likely to be time-consuming in practice. Therefore, reasonable price steps are equally important from the outset. Although the implementation may not be straightforward, misjudgements will con-tinue to occur in a volatile market environment. The explanations regarding ‘pro rata’ are rejected, as it is unclear for the involved stakeholders what the outcome would be. The key element is simply that errors can be corrected.
* 46 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

* 47 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

BDEW also sees no potential for improvement in this article compared to its current formulation.

H CAM NC, Chapter IV
Bundling of capacity at interconnection points (Articles 19-21)
Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

* In general maximizing bundling of firm capacity is crucial on a European level but at least in Germany the maximizing principle is already implemented. In terms of the 'firm capacity,' we would like to refer to the explanation provided in Question 15. During the ACER workshop (12.12.23), the question regarding the difference between the proposal at this point and the already established wording in Article 6(1)(a) No. 1 remained unanswered. Furthermore regarding the VIP proposal, it remains unclear whether it pertains to the transfer of old capacity or the execution, which has not yet been completed. From our point of view the new definition of VIPs in the EU Gas and hydrogen package is sufficient.
CAM NC

Article 20 – Alignment of main terms and conditions for bundled capacity products

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| ACER Opinion 06/2018 on the template for the main terms and conditions covering contractual provisions which are not affected by fundamental differences in principles of national law or jurisprudence, for the offer of bundled capacity products | **Update** of ENTSO-G’s “catalogue of the main terms and conditions in the transport contract(s) of the transmission system operators for bundled capacity products.” *(p. 2)*
- “The Agency is of the view that the Template does not always go as far as would be desirable. In particular, the Agency recommends that the template is enhanced by providing its content in a form ready to be used in contracts across the Union and by elaborating best practices.” *(p. 19)*
- “Moreover, the Agency draws ENTSO-G’s attention on the observations formulated in the recitals of this Opinion.” *(p. 19)* | yes |
| N/A                    | Ensure minimum alignment of Terms and Conditions for dealing with cancellations of bundled capacity | |

50. Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

51. Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The proposal overlooks the fact that there are many differing national laws and systems in this regard. Balancing systems vary significantly. A word-for-word alignment to the lowest common denominator agreed upon can also lead to national deteriorations. For example, termnation rights in Germany are well regulated. Harmonization to a minimum standard is neither desired nor advantageous overall.
Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

An amendment may further improve the market functioning and better capacity allocation.

- 53 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The proposed automation appears to be already feasible through the capacity booking platform PRISMA and RBP.
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<tr>
<td>N/A</td>
<td>The chapter on incremental capacity should be deleted from the NC. Triggering (cross-border) investments in light of climate neutrality objectives could be considered contradicting and experience with incremental processes in the past showed little relevance against cumbersome procedures.</td>
<td>maybe</td>
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- Hydrogen and decarbonised gas markets package must fix legal basis
- Judgment of the General Court, 16 March 2022 (T-694/19 and T-704/19) 37

* 54 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

* 55 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The regulations concerning the Incremental Capacity Process in Chapter V (Questions 54-73) have, from the German perspective, had no discernible impact or success in the desired sense. However, before considering their outright removal, at least an alternative should be introduced in the upcoming consultation process.
Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

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- **An amendment may further improve the market functioning and better capacity allocation**
  - [ ] Strongly agree
  - [ ] Agree
  - [ ] Neutral
  - [ ] Disagree
  - [ ] Strongly disagree

Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The regulations concerning the Incremental Capacity Process in Chapter V (Questions 54-73) have, from the German perspective, had no discernible impact or success in the desired sense. However, before considering their outright removal, at least an alternative should be intro-duced in the upcoming consultation process.
Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

61 Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The regulations concerning the Incremental Capacity Process in Chapter V (Questions 54-73) have, from the German perspective, had no discernible impact or success in the desired sense. However, before considering their outright removal, at least an alternative should be introduced in the upcoming consultation process.
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- Strongly agree
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- Neutral
- Disagree
- Strongly disagree

Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The regulations concerning the Incremental Capacity Process in Chapter V (Questions 54-73) have, from the German perspective, had no discernible impact or success in the desired sense. However, before considering their outright removal, at least an alternative should be intro-duced in the upcoming consultation process.
CAM NC
Article 27 – Design phase*

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<td>no</td>
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<tr>
<td>N/A</td>
<td>The chapter on incremental capacity should be deleted from the NC. Triggering (cross-border) investments in light of climate neutrality objectives could be considered contradicting and experience with incremental processes in the past showed little relevance against cumbersome procedures.</td>
<td>maybe</td>
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*64 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

*65 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The regulations concerning the Incremental Capacity Process in Chapter V (Questions 54-73) have, from the German perspective, had no discernible impact or success in the desired sense. However, before considering their outright removal, at least an alternative should be intro-duced in the upcoming consultation process.
### CAM NC

**Article 28 – Approval and publication**

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<td>The chapter on incremental capacity should be deleted from the NC. Triggering (cross-border) investments in light of climate neutrality objectives could be considered contradicting and experience with incremental processes in the past showed little relevance against cumbersome procedures.</td>
<td>maybe</td>
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- Hydrogen and decarbonised gas markets package must fix legal basis
- JUDGMENT OF THE GENERAL COURT: 16 March 2022 (T-16/19 Joined Cases T-694/19 and T-704/19)

### 66 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- [ ] Strongly agree
- [ ] Agree
- [ ] Neutral
- [ ] Disagree
- [ ] Strongly disagree

### 67 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The regulations concerning the Incremental Capacity Process in Chapter V (Questions 54-73) have, from the German perspective, had no discernible impact or success in the desired sense. However, before considering their outright removal, at least an alternative should be introduced in the upcoming consultation process.
Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The regulations concerning the Incremental Capacity Process in Chapter V (Questions 54-73) have, from the German perspective, had no discernible impact or success in the desired sense. However, before considering their outright removal, at least an alternative should be intro-duced in the upcoming consultation process.
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An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The regulations concerning the Incremental Capacity Process in Chapter V (Questions 54-73) have, from the German perspective, had no discernible impact or success in the desired sense. However, before considering their outright removal, at least an alternative should be introduced in the upcoming consultation process.
**CAM NC**

**Article 31 – Transitional arrangements**

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<td>I</td>
<td>Based on the nature of the article it may be redundant or to be updated</td>
<td>yes</td>
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<tr>
<td>N/A</td>
<td>The chapter on incremental capacity should be deleted from the NC. Triggering (cross-border) investments in light of climate neutrality objectives could be considered contradicting and experience with incremental processes in the past showed little relevance against cumbersome procedures.</td>
<td>maybe</td>
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*72 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- [ ] Strongly agree
- [ ] Agree
- [ ] Neutral
- [ ] Disagree
- [ ] Strongly disagree

*73 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The regulations concerning the Incremental Capacity Process in Chapter V (Questions 54-73) have, from the German perspective, had no discernible impact or success in the desired sense. However, before considering their outright removal, at least an alternative should be intro-duced in the upcoming consultation process.

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J CAM NC, Chapter VI

Interruptible capacity (Articles 32-36)
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| ACER Special Report on addressing congestion in North-West European gas markets | • “Neighbouring TSOs to extensively coordinate and jointly maximise the availability of firm and interruptible capacities.” (p. 4)  
• Bundling as key principle for offering interruptible (CAM TF) | yes |
| FUNC 01/2020 “Greater flexibility to book firm capacity at IPs” - Issue Solution and Issue, Solutions Supporting Note | Alignment with proposals on  
• Additional booking opportunities  
• Advance booking of monthly products  
• Advance booking of day-ahead products (Daily offer of DA products for the following 7 days on a rolling basis until the end of the month; Introduction of a ‘Balance-of-Month’ product) (cf. Annex 1 - Issue Solution-Supporting Note Evaluation of FUNC Issue 01/2020 “Greater flexibility to book firm capacity at IPs” 2023, p. 14-19) | yes |
| | Move Y, Q, M interruptible auctions from A CA to UPA  
• “It should allow a quicker allocation and avoid the cases of inefficiencies of ACA under certain market conditions to effectively allocate interruptible capacity” (cf. Annex 1 – Issue Solution Supporting Note Evaluation of FUNC Issue 01/2020 “Greater flexibility to book firm capacity at IPs” 2023, p. 23) | maybe |

*74 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- [ ] Strongly agree
- [ ] Agree
- [ ] Neutral
- [ ] Disagree
- [ ] Strongly disagree

*75 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

We strongly vote to keep and/or to implement the principle to offer unbundled interruptible capacities at IPs /VIPs for D-1, even if firm capacity is not sold out. With this instrument ship-pers with heritage contracts at the flange have the possibility to fulfil their contractual obligations.

BDEW want to elaborate the second point. For traders, this point is crucial because it can be problematic, if not frequent, when auctions are protracted and then need to be cancelled uni-laterally. In principle, the categories should be defined as firm-firm, firm-interruptible, inter-ruptible-interruptible. Since this would represent a transition for the TSOs, the proposal might be better framed not as mandatory but as a mandatory evaluation.
Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

BDEW also sees no potential for improvement in this article compared to its current formulation.
*78 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- [ ] Strongly agree
- [x] Agree
- [ ] Neutral
- [ ] Disagree
- [ ] Strongly disagree

*79 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

BDEW also sees no potential for improvement in this article compared to its current formulation.
• 80 Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

   An amendment may further improve the market functioning and better capacity allocation
   ○ Strongly agree
   ○ Agree
   ○ Neutral
   ○ Disagree
   ○ Strongly disagree

• 81 Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

   BDEW also sees no potential for improvement in this article compared to its current formulation.
**82** Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

- [ ] Strongly agree
- [ ] Agree
- [ ] Neutral
- [ ] Disagree
- [ ] Strongly disagree

An amendment may further improve the market functioning and better capacity allocation.

**83** Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

BDEW also sees no potential for improvement in this article compared to its current formulation.

**K CAM NC, Chapter VII**

**Capacity booking platforms (Article 37)**
Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

The validity time of the ACER decision should be extended. However, the participating TSOs should always retain the option to deviate from the decision if they reach a bilateral agreement regarding the platform. In such instances, a switch of the platform should be possible at any time. ACER should continue to hold the decision-making role as a last resort.

L CAM NC, Chapter VIII
Final provisions (Articles 37A-40)
* 86 Do you agree with ACER's review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe= amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

* 87 Please elaborate on why do you agree or disagree with ACER's review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

It is critical to note that almost all relevant regulatory content can be changed without follow-ing the regular adjustment process for regulations.
This approach would result in stakeholders having no binding basis for their transactions.
If Art. 37a remains it is of utmost importance that ACER, NRA and ENTSOG decide jointly about any changes.
88. Do you agree with ACER’s review of this CAM NC article and the identified area(s) of improvement (yes=amendment identified, maybe=amendment may improve market, no=no change envisioned)?

An amendment may further improve the market functioning and better capacity allocation

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree

89. Please elaborate on why do you agree or disagree with ACER’s review, being specific about which elements you agree or disagree with? Are there further improvements that you consider relevant in this area in addition to the ones raised by ACER in the scoping document; please explain your reasoning?

We agree to this proposal. The provided date alone serves as justification.
This article concerns legal procedural matters; please write down any comments you may have on this article?

90

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Other comments or suggestions
Do you have any other comments or suggestions?

The BDEW welcomes the examination of the NC CAM, especially in light of the crisis year 2022. Many proposals present an improving potential for access to firm capacity or optimization. However, we would like to emphasize that the need for adaptation should also be accompanied by minimal implementation effort and an overly detailed regulation may not necessarily be advantageous for all stakeholders in the European market.

N Responses are published in full, safe for the contact person information; please confirm that your version does not contain confidential information

93 I understand my response will be published and
☐ I confirm that my response does not contain confidential information
☐ I confirm that my response contains confidential information, properly marked as such, and a non-confidential version of my answer is included

Thank you!