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NordREG position on CACM 2.0

NordREG welcomes the Commission's draft proposal for CACM 2.0, which was circulated to Member States in October. Over the past decade, European countries have made substantial progress in developing electricity markets. The revision of the CACM Regulation represents a crucial step toward aligning CACM with other relevant legislation and ensuring that the European electricity market is well-equipped for future challenges and developments.

In this common position paper, NordREG highlights a set of issues, proposed changes, and potential solutions that we, as regulators, consider particularly important in the ongoing revision process. The paper does not seek to provide a comprehensive assessment of all provisions in the draft proposal. Instead, it focuses on selected areas where we see clear potential for improvement, or where further clarification or adjustment is needed. Our objective is to contribute to a constructive dialogue on how CACM 2.0 can support the development of a more efficient, transparent, and resilient electricity market in Europe.

Organization of market coupling

NordREG recognizes the importance of a well-functioning market coupling organization and acknowledges that there is room for improvement in the existing setup based on the current version of CACM.

Notably, NordREG shares the Commission's view that the current market coupling organization has certain shortcomings, particularly regarding the need for a clearer separation between monopolistic and competitive NEMO tasks. Such a separation could contribute to a more efficient development of the market coupling, better regulatory oversight, and a more level playing field among NEMOs and new entrants, due to the absence of NEMO-to-NEMO arrangements.

At the same time, NordREG emphasizes the need for thorough and transparent processes when implementing significant changes. The introduction of a Single Market Coupling Operator (SMCO) represents a major shift in the current market coupling framework and, in our view, requires careful consideration before any implementation.

In light of the above, NordREG would welcome a more detailed impact assessment and a thorough discussion involving affected stakeholders, of whether the SMCO or alternative arrangements could overcome the current shortcoming of the market coupling organization. Such an approach should carefully balance the need to improve the market coupling framework with the ongoing transformation of the electricity market and the necessity of prioritizing scarce resources across all relevant stakeholders.

Monopoly NEMOs

As countries gain experience with multiple, competitive NEMOs, the need or rationale for the remaining monopoly NEMOs seems less convincing. A dismantling of the remaining monopoly NEMOs in line with the Commission's proposals in CACM 2.0 no longer seems unreasonable or unobtainable. Monopoly NEMOs hinder market development because they lack incentives to provide the services demanded by market participants. In contrast, we see that competing NEMOs can provide valuable impulses for innovation and specialization. The Nordic experience with multiple NEMOs has been largely positive and has not revealed any major problems or issues with such competition, and we therefore see no reason for not having competitive NEMOs.

Sharing of MCO costs

The existing approach to cost sharing and cost recovery for the MCO function is fraught with ambiguities and difficulties. Regulatory practice for the approval of cost recovery for the NEMOs that perform the MCO function varies across countries. The uncertainties involved in fragmented cost recovery can deter or slow necessary changes and improvements in market coupling systems and routines. Furthermore, there is a real risk of cross-subsidization between competitive and monopolistic NEMO activities with the current setup.

NordREG welcomes and supports the main intention of proposed changes in CACM 2.0 which introduce a harmonized approach and clarify the rules and practices surrounding cost sharing. Increased clarity and a better framework to support and ensure funding for future development of market coupling will facilitate market development, allow for better incentives for cost effectiveness and, ultimately, benefit the market.

Regulatory access to the market coupling algorithms

Under the existing version of CACM, the market coupling algorithms for the day-ahead and intraday auctions are owned by private companies that invoke property rights to place strict conditions on access to and use of the algorithm. This makes it difficult for NRAs to use simulations and analyses based on the algorithm when investigating and monitoring the functioning of electricity markets.

The Nordic NRAs are pleased that the requirements on the market coupling systems proposed in CACM 2.0 clearly stipulate that regulatory authorities, as well as ACER and the Commission, shall have access to the source code of the market coupling algorithm and shall be able to run simulations based on the algorithm. To avoid any ambiguity, we would like to emphasize that simulations based on the algorithm and any algorithm results also can be used in regulatory work according to the regulatory authorities' own discretion.

The issue of algorithm ownership raises also other concerns for us as regulators. The current algorithms and technological solutions related to market coupling are reaching their operational limits and there is a need to invest in technological upgrades and other forms of further development. Co-ownership of the algorithm and systems by several private companies has made it difficult to reach agreement on the actions necessary to ensure technological development and innovation.

Finally, the current arrangement of algorithm ownership and MCO operation by a subset of competitive NEMOs in the day-ahead market creates an uneven playing field and has the potential to deter new NEMO entrants to the market.

Access to market data

Transparency and access to market information are necessary pre-requisites for well-functioning competitive markets. Access to fundamental market data has, unfortunately, been a recurring issue of contention between regulatory authorities and the NEMOs in recent years. The Nordic NRAs support the clarifications and proposals about market data publication and access in CACM 2.0. We agree that the rules and regulations for access to data should be subject to a methodology which can be adapted and revised as the market evolves and information needs change.

Given the NEMOs' reluctance to facilitate easy access to data/information free of charge in recent years, it is important that the issue of publication and access to information is not left entirely to a methodology which is yet to be developed. Minimum requirements for data publication should be stipulated in CACM 2.0 directly, and it should be made clear that the minimum requirements can be further refined and revised via the methodology.

NRAs need access to market data to successfully perform market surveillance. The introduction of multiple NEMO arrangements has made it impossible for individual NEMOs to carry out effective market surveillance, as market participants can trade across different NEMOs. Each NEMO only has access to a subset of bids and transactions and therefore not necessarily a complete overview of a market participant's full engagement in a given market. As a result, only NRAs and ACER can effectively detect suspicious behavior.

To facilitate efficient NRA market monitoring, NEMOs shall, upon request, provide NRAs and/or ACER with any market data without undue delay and at no cost. All market data shall remain accessible for a minimum of 10 years.

Sufficient checks to avoid erroneous bids

While draft Articles 24(1)(b) and 55(4)–(5) require NEMOs to perform "efficient quality checks" and to "inform the relevant market participant without delay" when unusual orders are detected, these provisions are too general and do not provide sufficient safeguards to ensure adequate system operational security.

A bid which is clearly erroneous but submitted before gate closure time can currently find its way into the price coupling process and threaten the system security of the affected TSOs, because NEMOs consider themselves unable to intervene in the market coupling process after it has started. This creates a risk of erroneous inputs distorting market prices, undermining general trust in the wholesale market and creating serious operational security issues for TSOs and the energy market as whole.

NordREG emphasizes that market coupling operations need to be sufficiently robust when faced with possible large bidding errors, and we would like to see that such a requirement is clearly stated in CACM 2.0 and further elaborated with an appropriate methodology.

Deadline for regulatory approval of TCMs

CACM 2.0 stipulates that the competent authority, ACER or relevant regulatory authorities (RAs) should decide on TCMs within 6 months of submission of proposals from NEMOs and/or TSOs. The existing version of CACM also contains a 6-month deadline for regulatory approval. However, in the current version of CACM, the 6-month deadline is extended by four months in cases where one or

more regulatory authority (RA) requests an amendment to the submitted proposal. The four-month extension is divided between two months for the NEMOs and/or TSOs to re-submit an amended proposal and a further two months for RAs to make their final decision after the re-submission. The draft of the revised CACM does not allow for such a 2+2-extension. Instead, it states simply that all necessary steps must be taken *within the 6-month period* to ensure that the deadline for a decision is met.

There is clear value in avoiding unnecessary delays in the drafting and approval of TCMS, but deadlines need to be realistic. A short processing time might work fine for many TCMs, but experience has shown that some decisions are more complex and require additional discussions or consultations. We are concerned that a strict 6-month deadline will not provide sufficient leeway for the more complicated cases. With no opportunity for an extension, quality might be sacrificed for the sake of time. The 2-month extension deadlines in the existing version of CACM are not lax, especially in cases where many actors are involved and must coordinate.

Theoretically, the RAs could, if pressed for time, make a quick decision and then ask for another revision shortly afterward, thereby "re-starting the clock". In such cases, a few months extra for discussions on the initial proposal could, in fact, have saved time overall and would avoid a situation with an interim period. In NordREG's view, the possible extension of 2+2 months for regulatory approval should be retained in CACM 2.0.

Regional fallback solutions

Market coupling needs to have effective fallback solutions in place in case unexpected events necessitate partial or full decoupling of electricity markets. Market coupling has, for the most part, proven itself to be robust: Decoupling events have been few and far between. They are, however, very costly when they do occur. Recent decoupling events indicated the need to review and possibly reconsider the current fallback solutions. Discussion between ACER, NRAs, NEMOs and TSOs are ongoing, and the contours of a possible new solution or approach are not yet clear.

Current fallback solutions are regional, not harmonized, and they reflect different needs with respect to operational security in various parts of Europe. The current Nordic-Baltic solution allows for the most time to solve eventual issues or problems that can threaten market coupling. This means that the Nordic-Baltic markets will be able to remain coupled as a region and calculate market results in all but the most extreme events. The solution in place in the CORE-region is, however, much more susceptible to a decoupling of the countries within the region.

Ongoing discussions about possible new approaches or solutions touch on the issue of harmonization, but there appears to be quite fundamental differences in needs between the Nordic-Baltic TSOs on the one hand and the TSOs in the CORE region and other parts of continental Europe on the other. The gap between the two needs appears to be too large to be bridged in the near future. In our view, it is unlikely that a pan-European solution will be anywhere close to as effective as the current fallback solution for the Nordic-Baltic region, which has proven successful during recent decoupling incidents. The Nordic NRAs see that the Commission has attempted to create an opening for retaining regional fallback solutions, but we are concerned that this opening may not be sufficient or clear enough to ensure the continuation of the current well-functioning Nordic-Baltic fallback procedure. NordREG would appreciate that our regional solution can remain in place in the future.

Capacity calculation regions

The determination of CCRs plays a crucial role for capacity calculation, capacity allocation and operational security coordination. CCRs should allow for maximizing cross-zonal capacity and minimizing costs for remedial actions, while establishing the most efficient governance for coordination of calculation and allocation of cross-zonal capacity. The proposed article on the determination of CCRs introduces new requirements for determining the CCRs, by removing the condition that one bidding zone border shall only belong to one CCR and introducing bidding zones as part of the determination of CCRs.

The Nordic NRAs believe the implications of the revised wording of CACM Article 29 are unclear. Specifically, we struggle to understand the interpretation of Article 29 (2) b) stating that "each capacity calculation region shall include the TSOs which are assigned to its bidding zone borders".

The Nordic NRAs support the change that one bidding zone border may be assigned to more than one CCR. However, if the wording of Article 29 (2) b) implies that the TSOs currently included in the Hansa CCR shall be part of both the Nordic and Core CCR, the Nordic NRAs do not believe this will enhance the effectiveness of the processes. Such an interpretation will only lead to an increase in the number of TSOs and NRAs involved in each CCR, increasing complexity and administration.

The Nordic NRAs support a solution where the TSOs currently included in both Core and Hansa CCRs, only need to be included in Core CCR if Hansa CCR is dissolved, and that TSOs currently included in both Nordic and Hansa CCRs only need to be included in Nordic CCR. The Nordic NRAs believe the coordination needed in capacity calculation between the Nordic and Core CCRs can be managed through advanced hybrid coupling and coordination between the RCCs with respect to the physical capacity available on the interconnectors.