Position Paper

Europex

CACM 2.0 and the EU's Simplification Agenda

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Introduction and Executive Summary

The ongoing recast of the CACM Guidelines comes at a decisive moment for the EU's Internal Electricity Market. As one of the central regulatory pillars for short-term electricity trading, the Guidelines must align with the Union's broader political and strategic direction. This paper concludes that the current proposal does **not** sufficiently reflect the EU's mandates. Indeed, the current version fails across key dimensions like simplification, legal coherence, regulatory predictability, SME participation, competitiveness, investment, resilience and democratic governance.

The proposed reform will weaken the Internal Electricity Market by moving away from EU political priorities. In the current draft, "simplification" is invoked to justify policy changes without proper impact assessment or sufficient in-depth consideration. The Single Market Coupling Operator (SMCO) introduces a single point of failure, incrementing not just operational and financial risks but also that of external sabotage. Moreover, by instituting this figure through an implementing act, the Commission contravenes (1) the Parliaments prior rejection of the SMCO; (2) the underlying Regulation (EU) 2019/943 on the internal market for electricity, (3) article 291(2) TFEU; and (4) extensive CJEU case law.

Instead of delivering simplification, the draft Guideline introduce **additional bureaucracy** through expanded governance layers, new reporting burdens and centralised decision-making within the proposed SMCO. This weakens smaller players, significantly reduces competition and competitiveness. It also enforces centralisation at the expense of efficient decentralised operations and regional and local response mechanisms. This paper identifies other issues, like the absence of an impact assessment and insufficient stakeholder involvement which threaten transparency, legitimacy and trust in EU energy governance. Moreover, the proposal disregards the Green and Digital transition and effectively expropriates private property, disincentivising future investments.

The CACM Guidelines are of vital importance to the security, sustainability and affordability of energy for all Europeans. It is essential that the recast guidelines reinforce resilience and cybersecurity safeguards; reduce administrative burdens; protect competition; ensure full legal consistency, transparency and stakeholder engagement; and support decarbonisation, innovation and strategic autonomy. The EU cannot afford anything less.

Structure and Aim of the Paper

This paper contends that, in its current form, the proposed CACM 2.0 reform falls short of meeting the requirements set out in several strategic documents of both the Commission and the Council. Especially, the proposal does not adequately reflect the mandates and objectives articulated in the following key binding documents:

- The **Treaty on the Functioning of the European Union**, establishes, under Article 291 TFEU, that implementing acts may only lay down uniform conditions for the implementation of legally binding Union acts. Accordingly, instruments such as the CACM Guidelines must confine themselves to detailing the application of rules already established in their enabling acts, without introducing new substantive elements.
- The **Strategic Agenda 2024–2029**, prioritises "a prosperous and competitive Europe" and explicitly commits to deepening the Single Market.
- The **European Commission Priorities 2024–2029**, which translate these strategic directions into concrete initiatives for regulatory simplification, innovation, the green and digital transition and strengthening Europe's resilience in critical sectors.
- The **European Commission's Competitiveness Compass**, which outlines a roadmap to close the innovation gap, accelerate decarbonisation, reduce dependencies, simplify regulation, remove Single Market barriers, enhance skills and investment and better align national and EU policies towards overarching competitiveness imperatives.
- The **European Commission's Better Regulation Guidelines**, which set up the framework for the improvement of simplification and implementation of the EU legislation under the steering of the new Commissioner for Implementation and Simplification.

This paper's aim is to identify counterproductive provisions in the draft recast CACM. For that, it will first establish a set of criteria derived from the aforementioned strategic documents - benchmarks that any reform and, in particular, CACM 2.0, must meet in order to remain consistent with the EU's political mandate. It will then assess the proposed CACM 2.0 reform against these criteria and identify the areas in which it falls short.

In this context, it is essential to emphasise that simplification should not be pursued as an end in itself. Its purpose must be to enable efficient business operations and to alleviate unnecessary regulatory burdens, thereby strengthening the competitiveness of the EU economy. However, simplification must not come at the expense of the effectiveness or robustness of systems, services, operations or consumer protection. **Europex has observed an emerging trend in which the notion "simplification" is increasingly invoked to justify policy changes without adequate impact assessment or thorough analysis. We strongly caution against such an approach, including with regard to CACM 2.0.**

1. Simplification and Implementation of EU Legislation

Strategic references:

- EUCO (2024) Strategic Agenda 2024–2029
- COM (2021) Better Regulation Guidelines
- COM (2023) Long-term competitiveness of the EU: looking beyond 2030, [25% reduction target for administrative burdens through reinforced scrutiny of delegated and implementing acts, (p 168)]

CACM 2.0 proposal:

The proposal expands governance layers by introducing new reporting obligations and transferring certain decision-making responsibilities from Nominated Electricity Market Operators (NEMOs) to a newly proposed Single Market Coupling Operator (SMCO). It eliminates NEMO-only methodologies and centralises key market design decisions within the SMCO framework.

On the one hand, the proposal includes several measures aimed at harmonising and standardising governance, processes, systems and interfaces, contributing to a simplification of the overall framework. While Europex acknowledges and supports these developments, they remain isolated and limited in focus. On the other hand, however, these positive developments are outweighed by a growing level of regulatory detail and administrative complexity, which is a ubiquitous feature of the CACM 2.0 proposal. Our aim is to flag these counterproductive measures to ensure the optimal design of the recast guidelines.

Gaps and shortcomings:

Contrary to the Strategic Agendas aim to reduce the bureaucratic and regulatory burden and simplify and accelerate administrative procedures, CACM 2.0 introduces additional layers of administrative complexity. The proliferation of reporting requirements, coupled with the establishment of the new SMCO governance structure, results in a burdensome bureaucratic framework that runs counter to the EU's commitment to reduce regulatory burden by 25%. Furthermore, the transfer of market design competences away from NEMOs risks blurring operational responsibilities and creating inefficiencies through overlapping mandates between Transmission System Operators (TSOs) and NEMOs.

Moreover, by concentrating authority in a new central body without establishing a clear accountability framework, CACM 2.0 undermines the Better Regulation principle of enhancing implementation through clarity and predictability. Rather than simplifying the system, it introduces additional governance layers that make compliance more complex, time-consuming and costly. The reform, in its current form, risks adding a further bureaucratic burden to the electricity market instead of streamlining it. These extra layers add new costs render the whole system less competitive. To promote the EU's objectives of simplification and competitiveness these must be eliminated.

2. SME Proofing

Strategic references:

- COM Work Programme 2024
- SME Test and 'Think Small First' Principle, as part of the COM (2023) Better Regulation Toolbox

CACM 2.0 proposal:

The proposal does not include a Small and Medium-sized Enterprise (SME) impact analysis. It imposes NEMO fees on market participants to cover the costs to establish, develop and operate the SMCO and modifies the influence of market participants in market design processes in general. Smaller and medium-sized enterprises are particularly vulnerable to this loss of agency and will be disproportionally harmed by these fees.

Gaps and shortcomings:

EU policy has long recognised the importance of small and medium enterprises for competition and employment. Moreover, it has embedded their protection in its guiding principles. In this sense, CACM 2.0 fails to comply with the "Think Small First" principle embedded in EU policy. The absence of an impact assessment disregards the competitiveness implications this Guideline will have for smaller market actors. The administrative burdens CACM will impose scale very poorly for small actors such as independent exchanges or service providers. The proposed SMCO/NEMO fee and governance framework will impose disproportionate compliance costs on small participants, who lack the scale and capital of larger incumbents. At the same time, capping the possibility of NEMOs to refinance their costs as proposed in the second draft of the CACM 2.0 proposal, puts the overall financing at risk.

In addition, the CACM proposal does not provide sufficient means to allow for stakeholder participation in further developing market coupling. Market participants should be directly involved in decision processes whenever possible; beyond that, NEMOs have a clear interest in offering products and services that meet market needs and act as their consequent agents in the remaining decision-making processes.

This omission risks marginalising innovative and agile market players that contribute to competition and efficiency. By ignoring SME-proofing principles, CACM 2.0 will entrench market concentration and reduce diversity in the EU market landscape — directly contradicting the Commission's goal of a level playing field. A more proportionate and inclusive design, underpinned by an SME-sensitive approach, is essential to maintain market openness and innovation.

3. Consistency with the EU Legal Framework (acquis communautaire)

Strategic references:

- Treaty on the Functioning of the European Union (TFEU)
- COM (2021) Better Regulation Guidelines and COM (2023) Better Regulation Toolbox
- Clean Energy for All Europeans Package (2019) and Electricity Market Design Reform (2024)

CACM 2.0 proposal:

CACM 2.0 exhibits clear inconsistencies with the TFEU and existing EU legal framework. Indeed, the proposal infringes on the competences of Member States and national authorities by introducing new figures and requirements, which are not present in the enabling legal act. Such expansion cannot be lawfully enacted through a level 2 implementing regulation like CACM, which lacks the legal force to amend Level 1 legislation. Notably, the Court of Justice has repeatedly clarified the limits of an implementing act: it cannot amend or supplement the legislative act, only further detail what is already established in said legislative act.[1]

The introduction of the SMCO is in direct contradiction with the Parliaments prior rejection of the Single Legal Entity, a figure essentially identical, in the Electricity Market Design Review (EMDR). Moreover, the proposed SMCO setup contradicts

[1] See: ECJ,15 October 2014, Parliament v Commission, C-65/13, EU:C:2014:2289, paragraphs 43 to 46

Regulation (EU) 2019/943, which exclusively reserves the organisation of the integrated day-ahead and intraday markets to TSOs and NEMOs.

These misalignments risk creating legal uncertainty and could trigger challenges before the Court of Justice of the EU. The proposal's legal fragility threatens both regulatory stability and investor confidence — two pillars of the Internal Energy Market.

In conclusion, the proposal creates disproportionate and unnecessary risks to the operational and financial security of this key strategic EU market.

4. Regulatory Predictability

Strategic references:

- COM (2025) Omnibus I Package with special emphasis on the "Stop-the-Clock" Mechanism (analogous application of the stated principles)

CACM 2.0 proposal:

While the proposal includes some indicative milestones for the introduction of the SMCO, it also imposes various immediate obligations without providing a clear transition roadmap. The deadlines for new structures and requirements appear arbitrary and do not provide for a review of the implementation plan or exit mechanisms. Transition costs are not sufficiently clarified in the proposal in terms of scope and coverage.

Gaps and shortcomings:

The proposal creates uncertainty for stakeholders. Indeed, the reform mandates immediate compliance without allowing adequate time for adaptation or risk assessment (e.g., provisions on the use of market coupling systems, data publication, fallback procedures, etc). This severely hinders predictability, harming regulatory credibility.

The establishment of the SMCO further increases legal and financial complexity. Its creation will entail significant costs linked to legal setup and operational challenges in defining relationships with NEMOs, TSOs, and system service providers. It also opens the door to potential litigation due to inconsistencies with EU law. In short, CACM 2.0 neglects the principle of regulatory foreseeability.

5. Alignment with EU Strategic Priorities

Strategic references:

- EUCO (2024) Strategic Agenda 2024–2029
- European Commission (2024) Priorities 2024–2029

CACM 2.0 proposal:

In the accompanying documents explaining the background and drivers for the proposal, the Commission remains largely neutral regarding renewable integration, digitalisation, and strategic autonomy. The Commission's focus is to narrowly set on centralising market coupling procedures and does not reference broader EU industrial, digital, or sustainability goals.

Gaps and shortcomings:

CACM 2.0 fails to reflect the EU's overarching strategic direction. The proposal does not embed the green or digital transitions into its framework, nor does it recognise the role of short-term markets as a pillar for decarbonisation and flexibility. The text does not address how the new, more bureaucratic approach might affect innovation in the energy transition. By neglecting the integration of advanced digital tools, data interoperability, and energy security, CACM 2.0 risks becoming outdated before it enters into force.

Additionally, the lack of linkage to strategic autonomy undermines the EU's competitiveness in energy technologies. CACM 2.0 thus diverges from the EU's twin transition and competitiveness priorities.

6. Investment and Finance Facilitation

Strategic references:

- COM (2025) Omnibus II Package with special emphasis on InvestEU Reform
- Charter of Fundamental Rights of the European Union (2000)

CACM 2.0 proposal:

The proposal does not establish mechanisms for investment signalling or financing integration.

Gaps and shortcomings:

Instead of empowering European market actors and fostering innovation, the reform's governance centralisation discourages private investment and diminishes the role of technology-driven market solutions. The effective "expropriation" of privately developed coupling systems from TSO's and NEMO's to a new SMCO entity raises serious concerns about property rights and investment protection. The Proposal would permit a disproportionate restriction on the freedom of NEMOs to conduct their business activities as guaranteed under the Charter of Fundamental Rights of the European Union (EU Charter), and to the exercise of their protected right to property. The Proposal does not satisfy any of the cumulative requirements set forth in the EU Charter for limitation of fundamental rights.

In practice, the draft CACM 2.0 Regulation would require NEMOs to establish a legally and functionally independent SMCO, to transfer core business functions and systems to the SMCO and to finance this new entity. Furthermore, NEMOs would be required to sell or license their coupling algorithms to the SMCO. CACM 2.0 even imposes specific financial conditions that exclude the recovery of costs established by regulatory decisions. As a result, NEMOs would be effectively deprived of their intellectual property without receiving adequate compensation.

Moreover, the proposal provides for significant restrictions on the use of market coupling solutions in third countries, with the Commission having the power to restrict use even in the absence of due justification. Again, this measure risks disincentivising further investments as it increases transaction costs and reduces project bankability.

7. Resilience, Crisis Preparedness and Security

Strategic references:

- COM (2025) White Paper for European Defence – Readiness 2030
- COM (2025) Defence Readiness Omnibus
- EUCO (2024) Strategic Agenda 2024–2029

CACM 2.0 proposal:

The proposal omits resilience indicators and crisis-readiness scenarios. It establishes a single operational entity (SMCO) responsible for core market coupling functions.

Gaps and shortcomings:

By failing to integrate resilience considerations, CACM 2.0 overlooks one of the EU's most urgent strategic imperatives. A centralised SMCO introduces significant operational and financial risks compared to the current decentralised MCO Function setup. Indeed, the creation of an SMCO solely conducting all price coupling and matching calculations poses both cybersecurity and systemic risks: a single point of failure could jeopardise the continuity of electricity market operations.

The absence of cybersecurity alignment with the Network Code on Cybersecurity and the lack of redundancy or contingency planning contradict the EU's resilience goals. In an era where digital threats are increasing, the concentration of operational control within one body represents a structural vulnerability. CACM 2.0 therefore, weakens rather than strengthens the Union's ability to withstand crises and cyberattacks.

It is a fact that no private company or administrative entity can be technically and economically organised and managed in such a way as to completely protect itself from internal systemic risks and external threats. The current market coupling structure for auctions, on the other hand, can compensate for any failure.

The value of cross-border energy trading and market coupling is also recognised in ACER reports as amounting to billions of euros per daily session. This value is ultimately being exposed to an avoidable risk by the proposed reform, e.g. SMCO risks leading to a number of full decouplings that would not occur in a decentralised MCO Function setup. The value of cross-border energy trading and market coupling is also recognised in ACER reports as amounting to billions of euros per daily session.

8. Democratic Values, Transparency and Rule of Law

Strategic references:

- COM (2024) Strategic Agenda 2024–2029 (Pillar 1: Democracy and Rule of Law)
- COM (2021) Better Regulation Guidelines on Stakeholder Participation

CACM 2.0 proposal:

Stakeholder consultations were conducted in 2021 and 2022, prior to the adoption of the EMDR, during which many CACM-related aspects were addressed, and before major political developments such as the energy crisis or recent blackouts. While the current proposal formally ensures transparency, it offers limited opportunities for meaningful stakeholder participation.

Gaps and shortcomings:

The participatory process for CACM 2.0 is outdated and incomplete. Consultations predate major policy and market changes, leaving many stakeholders without a meaningful opportunity to contribute since said consultations. While transparency mechanisms exist on paper, they fail to meet the Better Regulation standards of inclusiveness, timeliness, and evidence-based engagement.

The absence of a comprehensive impact assessment further undermines legitimacy. No cost-benefit or cost-savings analysis has been conducted, despite the explicit requirement under the Commission's simplification and implementation objectives. This procedural deficit weakens democratic accountability and risks eroding confidence in EU policymaking at a time when transparency and trust are essential to the Union's legitimacy.

Conclusion

Europex welcomes the steps taken towards standardisation and harmonisation. However, this paper aims to identify and flag counterproductive measures for removal from the draft recast CACM Guideline, in order to ensure well-functioning electricity markets for all Europeans. With this purpose, eight criteria have been analysed, identifying and flagging elements that must be eliminated. Europex's main concern is the **over-centralisation of the market coupling operation, which diverges from the Union's overarching policy objectives and strategic agenda,** and is being introduced through an **ultra vires exercise of implementing powers.**

While a reform of the electricity market coupling framework is necessary, it must be conducted in line with the Union's political commitment to simplification, competitiveness, investment and resilience.

A recalibrated CACM 2.0 should therefore:

- Streamline governance rather than multiply it;
- Strengthen SME participation and market diversity;
- Ensure full legal consistency with the acquis communautaire;
- Align with the EU's multi-transition and strategic autonomy goals;
- Embed clear transitional and implementation phases;
- Integrate resilience and cybersecurity safeguards; and
- Enforce transparency and market participant engagement.

Only through such an approach can the CACM 2.0 reform genuinely contribute to a more competitive, sustainable and secure European energy market.

About

Europex is a not-for-profit association of European energy exchanges with 37 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

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