

Pricing benchmarks in gas and electricity markets - a call for evidence

Call for evidence

Reference: 90/13
Publication date: 6 June 2013
Response deadline: 31 July 2013

Contact: Graham Knowles
Team: Wholesale Markets
Tel: 020 7901 7103
Email: graham.knowles@ofgem.gov.uk

Overview:

Price benchmarks are used by participants in gas and electricity markets in a variety of ways. This includes assessing the value that the market places on gas and electricity, and using them as reference points for contracts and other commercial activities. Price reporting agencies play a central role in providing market participants, regulators and others with reference prices approximating to the market value of 'over the counter' trades. These prices are used widely in the wholesale gas and electricity markets.

In the light of concerns raised about price reporting in the gas market, we have considered a range of issues around the role of reference prices and the key factors that determine the ability of price reporting agencies to make price assessments that represent a fair reflection of the market. At this point in our review we are seeking views and information from stakeholders, which we need to identify fully any potential issues and the scope of their impact. This call for evidence is seeking stakeholder views on how they use and contribute to price benchmarks, and whether they feel current arrangements are fit for purpose or think that further action is necessary.

Context

Price benchmarks are important in many markets as they are used widely by market participants and may affect costs borne by customers. Concerns about price benchmarks have led the European Commission and others to consider whether current arrangements are fit for purpose across a range of markets. Separately, last month the Commission carried out unannounced inspections at the premises of a number of companies in connection with concerns about the reporting of prices in the oil market.

As the regulator of Great Britain's gas and electricity markets, our principal objective under the Gas Act 1986 and under the Electricity Act 1989 is to protect the interests of existing and future energy consumers. We also have a number of functions and duties. We are required to monitor certain activities in both retail and wholesale markets with a view to exercising our functions. We use a number of tools to do this, and one is to observe prices in wholesale markets. A number of sources of information are available to us, including price assessments published by price reporting agencies.

In November last year a number of allegations were made about the nature of price formation in the gas market, and specifically in relation to the formation of day-ahead prices by a price reporting agency.

In this call for evidence we are seeking stakeholders' views to help us consider the role played by benchmarks used in GB gas and electricity markets.

Associated documents

A number of external publications are relevant to this document. These include:

[Principles for Oil Price Reporting Agencies – Final Report](#) (IOSCO, November 2012)

[Principles for Financial Benchmarks – Consultation](#) (IOSCO, April 2013)

[Consultation Document on the Regulation of Indices](#) (European Commission, September 2012) and [Summary of Responses](#) (January 2013)

[Principles for Benchmark Setting Processes in the EU](#) (ESMA/EBA, January 2013)

Contents

Executive Summary	4
1. Introduction	6
Rationale	6
The broader landscape	6
Price benchmarks in gas and electricity markets	8
Purpose of this document	8
2. Review	9
Reviewing current arrangements for forming price assessments	9
Concerns around price reporting agencies	10
The legal framework	10
The commercial framework	11
Price reporting agencies	11
Forming a benchmark price	12
The availability of price benchmarks	14
Regulatory framework	15
Self regulation	15
3. Way forward	18
The information we are seeking	18
Next steps	19
Appendices	20
Appendix 1 - Consultation Response and Questions	21
Appendix 2 - Glossary	23
Appendix 3 - Feedback Questionnaire	25

Executive Summary

Good information is essential to well functioning markets. Price benchmarks, in particular those published by price reporting agencies, play a central role in providing market participants, regulators and others with reference prices approximating to the market value of the relevant trades. In turn, price reporting agencies rely on market participants to supply them with good quality information. Confidence in the integrity of benchmarks is important for the market as they may be used to underpin a range of contracts, financial instruments (such as some forward contracts) and indices that in turn influence prices paid by end consumers. A lack of confidence in the integrity of benchmarks may raise prices to consumers as the costs of risk from uncertainty may be passed through to them.

We wish to establish whether the prices made available are currently fit for purpose or whether changes are needed to make them so.

The formation and use of benchmark prices in a wide variety of markets has recently been the subject of significant regulatory scrutiny. The manipulation of benchmarks that underpin financial transactions such as LIBOR and EURIBOR has led to work at European and domestic level considering the integrity and reliability of such prices. At European level this work has broadened to consider benchmark prices across a range of different markets.

Separately, last month the Commission carried out unannounced inspections at the premises of a number of companies in connection with concerns about the reporting of prices in the oil market. Meanwhile the International Organization of Securities Commission (IOSCO) has undertaken work for the G20 group of governments to consider arrangements for the reporting of global oil prices by price reporting agencies. Many of the principles it drew up are seen as applicable to gas and electricity markets. It has also recently consulted on principles for financial benchmarks.

We have considered a range of issues in relation to the role of reference prices and the ability of price reporting agencies to make price assessments that represent a fair reflection of the market. We have considered issues relating to how trading information informs prices, how the process of price assessment is governed and the methodologies by which prices assessments are made. We have spoken with the main price reporting agencies operating in the gas and electricity markets which have been helpful in providing us with information and an understanding of how their processes work. We very much welcome further constructive engagement with them going forward. Where appropriate we have been in contact with Government and the Financial Conduct Authority to keep them abreast of our work.

We would like to hear from market players who use benchmarking services to gather their views on the current arrangements for gas and electricity markets. We would like to ascertain if stakeholders feel that current arrangements are fit for purpose or if they think that further action is necessary. We intend to use this information from stakeholders to help us consider whether any further steps are warranted to help support benchmark pricing.



Pricing benchmarks in gas and electricity markets - a call for evidence

If we were to conclude that an intervention by Ofgem was needed, our response could range from facilitation to support effective self-regulation, to a more significant regulatory intervention. We may conclude that some response is required but another agency is better placed to take it forward.

1. Introduction

Rationale

- 1.1. Good information is central to well functioning markets. Gas and electricity markets, in common with many other freely traded markets make extensive use of pricing benchmarks. This allows participants to gauge the value that the market places on gas and electricity against their own valuations, for example. Benchmarks come in a variety of forms, including amongst others price assessments, indices relating to exchanges or over the counter trades, and mark-to-market prices. There are a variety of bodies that produce these benchmark prices, although the most commonly cited are those produced by price reporting agencies (PRAs).
- 1.2. Confidence in the integrity of benchmarks is important for the market as they may be used to underpin a range of contracts and financial instruments and indices that in turn may influence prices paid by end consumers. Undermining of confidence in the integrity of benchmarks may raise costs to consumers as the costs of risk from uncertainty are passed through to them.

The broader landscape

- 1.3. There have been institutional moves to review the reliability of benchmark pricing, both in a general way and through global and domestic consideration of specific types of benchmarks. For example, prompted by concerns over the manipulation of banking benchmarks, the European Commission issued a consultation on the regulation of indices in September last year.¹ The scope of the consultation was very broad, and included commodity benchmarks. This work is on-going, with an expectation of legislative proposals this year. Separately, last month the Commission carried out unannounced inspections at the premises of a number of companies in connection with concerns about the reporting of prices in the oil market.²
- 1.4. In response to the G20 Leaders Cannes Summit Final Declaration (2011), the International Organization of Securities Commission (IOSCO) led work with other agencies looking at arrangements for the formulation and reporting of oil prices. IOSCO published a final report on Principles for Oil Price Reporting Agencies in October 2012.³ The final report focused on oil PRAs with particular reference to assessments that are linked to derivatives contracts. This report was preceded by a consultation in March 2012 intended to get industry

¹ http://ec.europa.eu/internal_market/consultations/docs/2012/benchmarks/consultation-document_en.pdf

² http://europa.eu/rapid/press-release_MEMO-13-435_en.htm

³ <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD391.pdf>

feedback on oil PRAs and potential mechanisms to improve the transparency, reliability and integrity of the prices that they publish. Although specific to oil (which has some unique characteristics as a commodity) many of the findings and recommendations from this work are directly applicable to the reporting of gas and electricity prices. IOSCO has also recently consulted on principles for financial benchmarks.⁴

- 1.5. The European Securities and Markets Authority and European Banking Authority also consulted in January on Principles for Benchmark Setting Processes in the EU.⁵ These principles have a much wider scope than the IOSCO principles (the work of which it acknowledged, along with the European Commission's consultation on financial benchmarks), covering a broad spectrum of benchmarks, including commodities.
- 1.6. In terms of legislation, the European Commission has amended the proposals for the Market Abuse Regulation⁶ and the Criminal Sanctions for Market Abuse Directive⁷ to clarify that any manipulation of benchmarks is illegal and can be subject to administrative or criminal sanctions.⁸

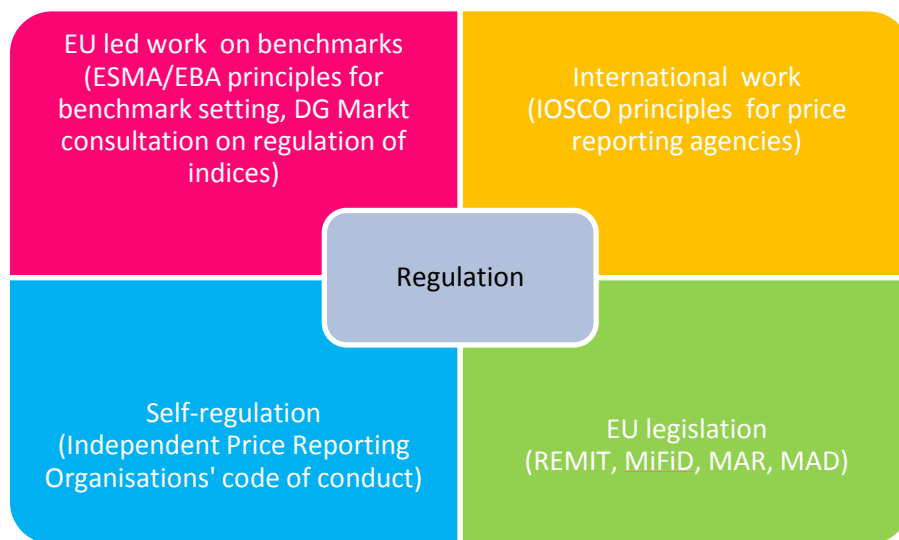


Figure 1: the range of regulatory oversight related to price formation

⁴ <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD409.pdf>

⁵ <http://www.esma.europa.eu/system/files/2013-12.pdf>

⁶ http://ec.europa.eu/internal_market/securities/docs/abuse/COM_2012_421_en.pdf

⁷ http://ec.europa.eu/internal_market/securities/docs/abuse/COM_2012_420_en.pdf

⁸ It is worth noting that in the case of gas and electricity markets, manipulation of reference prices in certain circumstances would breach the prohibition against market manipulation set out in REMIT. See paragraph 2.11.

Price benchmarks in gas and electricity markets

- 1.7. Some doubts have been expressed by commentators about the nature of price formation in the gas market, and specifically in relation to the formation of day-ahead prices by a price reporting agency.
- 1.8. Ofgem does not have direct regulatory oversight of the PRAs, nor price formation more generally. However, as the regulator of the gas and electricity markets with a principal objective to protect the interests of consumers, we considered it prudent to assess arrangements for gas and electricity markets. We have considered whether there are any inherent problems unique to the formation and use of benchmark prices in these markets which might result in raised costs to energy consumers.

Purpose of this document

- 1.9. We have considered a range of issues relative to the role of benchmark prices and in particular the ability of PRAs to form price assessments that represent a fair reflection of the value of trades in the market. At this point in our review we feel it is appropriate to gather further views and information from stakeholders, which are needed to identify fully the potential issues and scope of their impact.
- 1.10. We would like to further understand the views of market participants before making any decision on whether to undertake policy development in this area. We are issuing this call for evidence to seek industry views on how price benchmarking services are used and on the way in which current arrangements operate.
- 1.11. In chapter 2 we set out a high-level overview of our initial findings; while in chapter 3 we set out the information that we are seeking from stakeholders and how we will use this information to inform our next steps. Details of how to respond to this call for evidence are set out in appendix 1.

2. Review

Question box

Question 1: Do you agree with our review of the issues?

Reviewing current arrangements for forming price assessments

- 2.1. We have considered issues relative to price formation for energy markets, with a focus in particular on prices formed by price reporting agencies (PRAs). We have assessed these issues in the light of the work of other agencies such as the European Commission and IOSCO that have considered some general concerns about the formation of benchmark prices, and the formation of prices by PRAs.
- 2.2. We have undertaken a process of reviewing the regulatory and commercial arrangements in these areas, which continue to evolve rapidly. As part of our assessment, we have spoken with the three PRAs operating in gas and electricity markets (Argus, ICIS Heren, and Platts) to discuss how they form price assessments, including how they source information, the methodology they use, and the governance procedures that they have in place. We have reviewed the published methodologies of the PRAs and considered these against the IOSCO principles for oil price reporting agencies, and the self regulatory code of conduct devised by the PRAs for Independent Price Reporting Organisations. We have also considered any lessons that might be drawn from the Wheatley review of LIBOR.⁹
- 2.3. We have reviewed the limited information which is available publicly on how prices are used by market participants and concluded that we need feedback from stakeholders through this call for evidence to better understand this area.
- 2.4. Finally we have assessed the scope of our current powers and we have considered, if evidence should emerge that some measures might be needed, the types of approaches that might be possible or appropriate.

⁹ In considering the relationship of these issues to the LIBOR investigation, we concluded that although there might be some potential similarities, the risk to energy markets is lower due to fundamental differences between the two benchmarking processes. The LIBOR rate is based on contributions from market participants; PRAs, unlike Thompson Reuters who formulate LIBOR, have the discretion to disregard unreliable data; and there are multiple PRAs operating in energy markets.

Concerns around price reporting agencies

- 2.5. Some general concerns have been raised about price reporting agencies in the gas market. These include allegations made in the national press that reporters are poorly trained and that PRAs fail to follow their published methodologies, particularly with regards to the sourcing of information.¹⁰ We have reviewed the limited information available (including public methodologies and codes of conduct, other public statements and discussions with the price reporting agencies) to understand the extent to which the allegations that reporters are poorly trained and that PRAs fail to follow their published methodologies could be substantiated.

The legal framework

- 2.6. Ofgem¹¹ is the regulator of Great Britain's (GB) gas and electricity markets. Our powers, duties and objectives are set out in domestic and relevant EU legislation. This legal framework requires us to interpret the interests of consumers in a broad sense, as explained below.
- 2.7. Ofgem's principal objective under the Gas Act 1986 and under the Electricity Act 1989 is to protect the interests of existing and future energy consumers. We are generally required to act in the manner we consider will best further the principal objective by promoting effective competition in the markets we regulate wherever appropriate. However, we must always first consider whether there are other ways which would better protect consumers' interests. In performing our duties, we must also have regard to a number of other factors.
- 2.8. In addition to GB requirements, as the designated National Regulatory Authority (NRA) for GB, we are subject to a range of duties and objectives laid down by EU law (including the Gas and Electricity Directives),¹² which have now been reflected in domestic legislation.
- 2.9. We are required to monitor certain activities in both retail and wholesale markets with a view to facilitating the exercise of our functions. Our functions include a power to modify the conditions of licences held by licence holders. The existing categories of licence holders include a number of parties which we understand provide information to PRAs. However, PRAs are not licence holders themselves and there are also a number of other parties which submit information to PRAs but which are not licence holders.

¹⁰ Allegations were initially made in the Guardian newspaper on the 13th November 2012.

¹¹ Throughout this document, we use the terms "Ofgem", the "Authority", "we" and "us" interchangeably.

¹² The two Directives and three Regulations of the Third Energy Package can be accessed at http://ec.europa.eu/energy/gas_electricity/legislation/legislation_en.htm

- 2.10. In its role as NRA for GB, Ofgem is also the body responsible for ensuring that REMIT is applied in GB and that the relevant prohibitions relating to market manipulation and insider trading are enforced. REMIT is a directly-applicable EU Regulation which came into force on 28 December 2011 and establishes an EU-wide framework for tackling market abuse (in the form of insider dealing and market manipulation, including attempted market manipulation) in wholesale energy markets.¹³ The government is required to grant specific powers to Ofgem to investigate and penalise breaches of REMIT by 29 June 2013.
- 2.11. REMIT recognises explicitly the importance of information flows to PRAs and states at recital 13 that “[f]orms of market manipulation include...deliberately providing false information to undertakings which provide price assessments or market reports with the effect of misleading market participants acting on the basis of those price assessments or market reports” whilst recital 14 states that “[e]xamples of market manipulation and attempts to manipulate the market include...the offering, buying or selling of wholesale energy products with the purpose, intention or effect of misleading market participants acting on the basis of reference prices.”

The commercial framework

Price reporting agencies

- 2.12. In GB gas and electricity markets are dominated by over the counter trading¹⁴ and there is no single auction clearing price or exchange price that represents the trade of the majority of the market. PRAs provide prices which market participants who subscribe to their services can use as a reference for prevailing prices in the over the counter market.
- 2.13. The over the counter market is where gas or electricity is traded bilaterally between a buyer and seller, usually through an intermediary (such as a broker). Buyers “bid” (state how much they are prepared to pay for a certain quantity of gas or electricity) and sellers “offer”¹⁵ (state how much they are prepared to sell a certain quantity of gas or electricity for). Brokers match buyers and sellers where the prices bid and offered are sufficiently close for a trade to take place. Trades may take place at different values, depending on what individual buyers are willing to pay and individual sellers are willing to

¹³ It should be noted that market abuse relating to wholesale energy products which are also financial instruments is subject to the provisions of the Market Abuse Directive rather than REMIT. We note that this is an area in which further EU legislation is expected in the near future, including in the form of the proposed Market Abuse Regulation.

¹⁴ The most recent UK National Report (http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/NATIONAL_REPORTS/National%20Reporting%202012/NR_En/C12_NR_UK-EN.pdf) suggests over the counter trading accounts for around 95% of trades in the electricity market and between 75 and 80% for the gas market. Figures refer to 2011.

¹⁵ Sometimes referred to as an “ask” price.

accept and hence there is no single "price" for over the counter trades, but many different prices. As such there is demand for services which can generate prices that represent a fair value of trade in the market. Market participants can use these as a benchmark or reference point.

- 2.14. There are three main PRAs active in the gas and electricity markets in GB: ICIS Heren, Platts and Argus. Each produces price assessments according to its own independently developed methodology. Consequently each may derive a different published price for, for example, the "closing" day-ahead gas market. Their price assessments tend to be close, but not identical.¹⁶
- 2.15. The way in which PRAs derive their price assessments is set out in their published methodologies.¹⁷ While methodologies differ, broadly speaking each sets out that price assessments are formulated based on information gathered about brokered over the counter bilateral trades where prices are not otherwise visible. Typically a price reporter will survey market participants. Participants might include brokers, producers and producer consortia, shippers, wholesalers, distributors, retailers, energy consolidation groups, funds and banks.¹⁸ Reporters seek to confirm information about bilateral trades with counterparties, but this may be supplemented by other sources of information. Each applies a prioritisation to the available information according to its reliability.

Forming a benchmark price

- 2.16. When a benchmark price is formed there are three key determinants of its quality: the information available, the methodology by which the benchmark price is formed, and the governance of the process. All three need to be robust to form reliable benchmark prices. Some benchmark prices may be formed mechanistically according to a pre-set formula, such as a volume weighted average of trades on either a sample basis or (where the information is available such as a trading platform for an exchange) for the whole of that market segment.
- 2.17. In the case of price assessments formed by PRAs for the over the counter market, one of the key sources of information is traders. Traders may report on trades that they have undertaken, trades they know of from broker screens, and the range of bids and offers available to them in the market (indicative of the range of prices that others might trade at). The prices

¹⁶ Ofgem research of a sample period of data showed the average absolute differential between price reporters for Day Ahead gas prices has been 0.04p/therm, with a maximum differential of 0.35p/therm. For the equivalent Day Ahead baseload electricity contract, the average absolute differential has been £0.18/MWh, with a maximum differential of £1.75/MWh.

¹⁷ Methodologies are published on the companies' websites.

¹⁸ We note that some market participants have stated publicly that they do not provide price information to PRAs.

formed are used by the market at large (including traders) and therefore have a direct impact on consumers. This is illustrated in Figure 2.

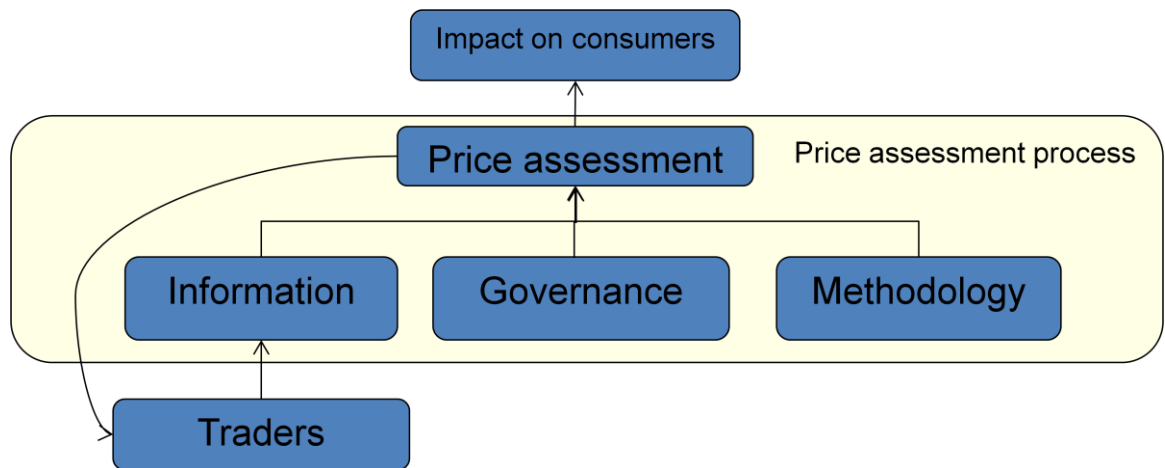


Figure 2: The key inputs to the price assessment process.

- 2.18. Various forms of regulation can impact on this process. The impacts may be positive. Some types of regulation may drive an emphasis on strong governance and transparent methodologies which in turn can increase the confidence of the market in that they understand how price assessments are made and the processes set out are adhered to.
- 2.19. However, some types of regulation may also introduce risks to the process. In particular greater regulatory scrutiny of the information flows could introduce a perception of risk (irrespective of whether the risk is real) to those providing the information. Regulation should increase the quality of the information provided, but could reduce the willingness of parties to provide it. Information is provided on a voluntary basis and the simplest way to mitigate this risk may be to withdraw cooperation and decline to provide it. This in turn can lead to a breakdown in the quality of the price assessment process, with negative consequences for the market and for consumers.
- 2.20. The potential impacts of regulation are illustrated in Figure 3 below, with the solid lines to the right showing the positive impacts and the broken lines to the left the potential negative impacts.

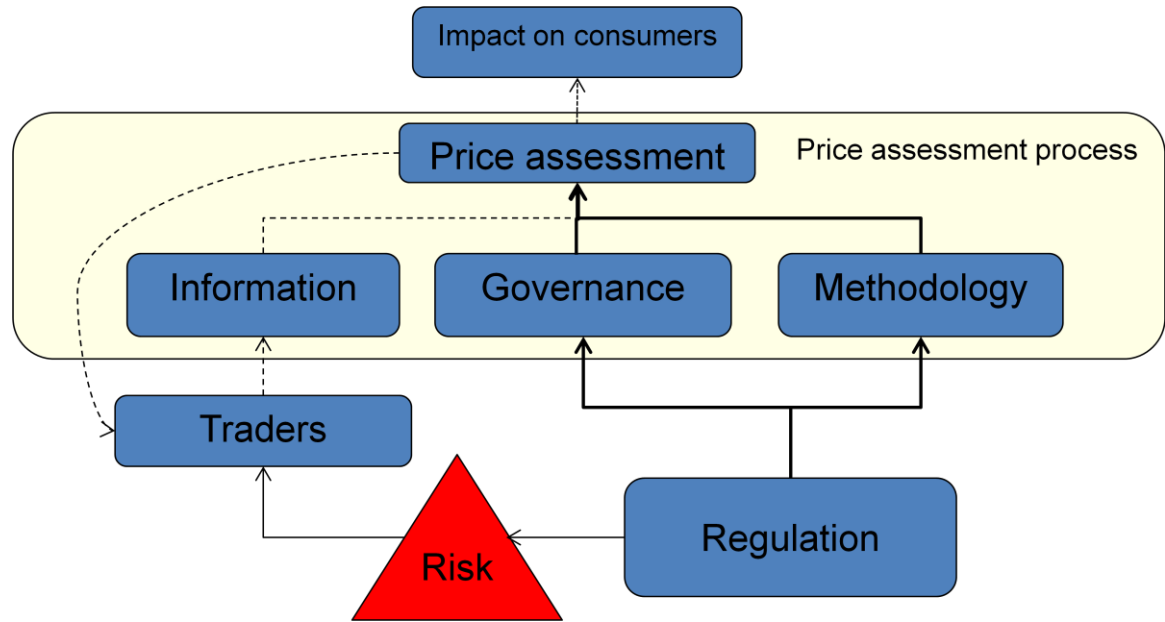


Figure 3: The potential impacts of regulation on the price assessment process.

- 2.21. Good information is essential for a well functioning market. It is therefore very important for both regulators and market participants alike to consider this relationship and ensure that the market continues to have good quality information available.

The availability of price benchmarks

- 2.22. The provision of benchmark prices is a commercial activity, and PRAs operate within a competitive field in GB. In addition to the three main agencies competing with each other and other information services (such as Bloomberg for example), there are alternative price indices representative of the over the counter market to which market players can both contribute information and use on a subscription basis.¹⁹ Alternative prices are also available through exchanges. Although exchange prices do not represent the over the counter market, for some markets they can fulfil a similar role as benchmarks. Some market participants may also use private mark-to-market services in order to benchmark their trading activity. Mark-to-market pricing is generally formed by a trader submitting information to a central provider and receiving a benchmark price in return. Prices are generally formed based on information submitted only by subscribers to the service, and are visible only to subscribers. The competitive environment is represented in Figure 4 below.

¹⁹ For example, three brokers (ICAP, Merex Spectron and Tullet Preborn) jointly launched a trade-backed volume-weighted average index earlier this year, called Tankard.

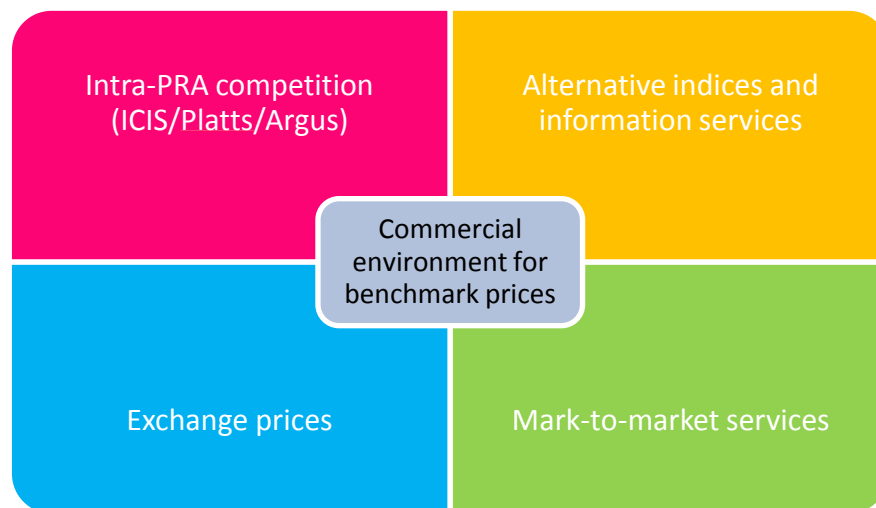


Figure 4: The market for benchmark prices.

Regulatory framework

- 2.23. Ofgem does not have specific powers to regulate PRAs and other providers of benchmark prices.²⁰ Indeed most providers of benchmark prices are self regulating, and as they sell services to subscribers in a competitive environment, may be deemed to have a strong commercial incentive to ensure that their customers retain confidence in their products.
- 2.24. However, exchanges (such as ICE Futures Europe) which also generate prices are subject to regulation by the Financial Conduct Authority. The Financial Conduct Authority has regulatory oversight of the trading of certain financial products relating to energy on UK trading venues (e.g. exchanges).

Self regulation

- 2.25. While PRAs self regulate, they are still subject to regulatory scrutiny. In October 2012 the International Organization of Securities Commission (IOSCO)²¹ published its final report on Principles for Oil Price Reporting Agencies.²² PRAs played an active role in the consultation process. The report sets out principles of behaviour to help mitigate the risk that PRAs' reporting could be distorted by misleading information provided by traders, or by

²⁰ Although price reporting agencies may be subject to some regulation enforceable by Ofgem: for example, REMIT.

²¹ IOSCO is an international body whose membership is made up of the majority of the world's securities regulators. The Financial Conduct Authority is a member and played an active role in the report on Principles for Oil Price Reporting Agencies.

²² IOSCO has also published draft principles for financial benchmarks, consulting on these in April 2013. The report is at: <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD409.pdf>

anomalously priced trades designed to move the benchmark price. It recommended a self regulation regime.

2.26. While the focus of the principles is oil reporting, we understand that the PRAs will look to embed the principles more broadly, including for their gas and electricity products, in their Independent Price Reporting Organisations' (IPRO) code²³ which in turn will be reflected in their own methodologies. Acknowledging that the IPRO code is still in draft format and pre-dated the IOSCO final report, we note on comparison that there are some gaps between the two documents.

2.27. The table below lists the principles proposed in the IOSCO report.²⁴

IOSCO principles
Quality and integrity of PRA methodologies. A PRA should:
Make its methodologies public, including information on: <ul style="list-style-type: none"> • how its data is collected • guidelines controlling the assessors' use of judgement (which should ensure consistency between assessors) • the minimum amount of data required to create an assessment • procedures for defining and addressing over-reliance on a single reporting entity • the situations in which data may be excluded from the assessment
Publish and adhere to a procedure for both internal and external reviews of its methodology
Explain the rationale for and publicly consult on any changes to its methodologies, giving stakeholders time to analyse and comment on the impact of the changes and making these responses available to all market stakeholders
Quality and integrity of price assessments. A PRA should:
Apply the following merit order to market data when creating a price assessment: <ul style="list-style-type: none"> • Concluded and reported transactions • Bids and offers • Other market information
Identify and record the decisions it makes to exclude anomalous data from its assessments
Publish a record of the scope of each assessment and the extent to which the assessor's judgement has been applied
Publish a definition of the organisations, and employees within those organisations, which may submit market data to the PRA
Implement controls (including internal escalation and cross-checking market indicators) to identify communications which attempt to: <ul style="list-style-type: none"> • influence an assessment for the benefit of any trading position • cause an assessor to violate the PRA's rules or guidelines • engage in a pattern of anomalous or suspicious data submission
Set minimum requirements for assessors' levels of training, experience and skills, and plan for their continuity and succession

²³ The original draft of the code was published for consultation in June 2012. Recent media reports have suggested an updated draft is expected imminently.

²⁴ The full report can be found at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD391.pdf>

Set procedures for the internal sign-off of the assessments
Set procedures to retain an audit trail of at least five years
Take steps to ensure that there are no conflicts of interest between the PRA and any market participant, including segregated functions and reporting lines where necessary
Publish the procedures for handling complaints regarding the assessment process, including a target timetable. Complaints should: <ul style="list-style-type: none">• be addressed by staff not involved in the subject of the complaint• receive a written response within a reasonable period• have recourse to a third party if they are dissatisfied with the PRA's decision• be retained for at least five years
Cooperate with market authorities carrying out their regulatory duties
Appoint an appropriate external auditor to carry out an annual audit of the PRA's adherence to its stated methodology and these principles

3. Way forward

Question box

Question 2: What is your company's policy on providing information to price reporters or other price benchmarking services?

Question 3: In what ways do you use benchmark prices provided by price reporting agencies or other price benchmarking services?

Question 4: Do you use a single price provider only, or a combination or variety of prices?

Question 5: What are your views on the terms of the IPRO code of conduct and the various published methodologies of the price reporting services with particular reference to gas and electricity markets?

Question 6: In the context of GB gas and electricity markets, do you consider the current arrangements whereby price reporting agencies operate under a self-regulatory regime are fit for purpose?

Question 7: Are there any other issues that you wish to raise in the context of this call for evidence?

The information we are seeking

- 3.1. We would like to hear from parties who contribute to and use benchmarking services to gather their views on the current arrangements for gas and electricity markets. We would like to ascertain if stakeholders feel that current arrangements are fit for purpose or if they think that further action is necessary. We are particularly interested in the arrangements of any parties that trade in wholesale gas or electricity markets and the ways in which they both contribute to and use benchmark prices. We also welcome the views of providers of benchmark prices, including PRAs, specialist agencies dealing in mark-to-market pricing, owners and operators of trading platforms, and other providers of information and commentary on wholesale gas and electricity markets.
- 3.2. This call for evidence is open until 31 July 2013, and we welcome and encourage responses from all interested parties. We understand that some of the information we are seeking may be commercially confidential. Respondents may request that their response be kept confidential. However, we would encourage respondents to confine confidential information to an appendix to their response.

Next steps

- 3.3. We will carefully consider the views of respondents and the evidence they provide before deciding on next steps. We are mindful that in addition to the evidence provided by respondents there is on-going work in a number of areas that may have a significant bearing on what, if any, action we might take. This includes, amongst other things, progress by the PRAs against the principles set out by IOSCO, and any legislative proposals brought forward by the European Commission in its work considering the regulation of indices, should these apply to gas and electricity markets.
- 3.4. We have made a preliminary consideration of a range of measures available to us if, in the light of further developments, we consider that action may be warranted. Our response could range from an approach that would see us act as a facilitator to further support effective self-regulation, to a more significant regulatory intervention.
- 3.5. Should the need arise to take forward measures, we are mindful that these should be targeted towards any specific problem identified and would need to be thoroughly assessed to ensure that they are effective and proportionate. We would also need to consider carefully which agency would have the appropriate powers to take any measures forward (noting that this may not necessarily be Ofgem). We are mindful that any action might come with unintended consequences and that we would need to work with stakeholders to identify and mitigate these.
- 3.6. In considering the views and evidence provided by stakeholders and noting on-going developments, it may be that it is not appropriate for Ofgem to take any action in this area. However, if evidence emerges that there are gaps in the current approach of self-regulation or it is apparent that supporting actions are needed to ensure that effective price benchmarks remain available to market participants, we will need to assess how best to respond. It might be the case that any issues would be addressed by on-going work overseen by other agencies. However, if it were clear that this was not the case we would need to carefully consider taking forward measures in this area, either by ourselves or if appropriate working with another relevant agency such as the Financial Conduct Authority.

Appendices

Index

Appendix	Name of Appendix	Page Number
1	Consultation responses and questions	21
2	Glossary	23
3	Feedback questionnaire	25

Appendix 1 - Consultation Response and Questions

1.1. Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter heading and which are replicated below.

1.3. Responses should be received by 31 July and should be sent to:

Graham Knowles
Wholesale Markets
Ofgem,
9 Millbank,
London
SW1P 3GE

graham.knowles@ofgem.gov.uk

1.4. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

1.6. Any questions on this document should, in the first instance, be directed to Graham Knowles at the address above.

CHAPTER: Two

Question1: Do you agree with our assessment of the issues?

CHAPTER: Three

Question 2: What is your company's policy on providing information to price reporters or other price benchmarking services?

Question 3: In what ways do you use benchmark prices provided by price reporting agencies or other price benchmarking services?

Question 4: Do you use a single price provider only, or a combination or variety of prices?

Question 5: What are your views on the terms of the IPRO code of conduct and the various published methodologies of the price reporting services with particular reference to gas and electricity markets?

Question 6: In the context of GB gas and electricity markets, do you consider the current arrangements whereby price reporting agencies operate under a self-regulatory regime are fit for purpose?

Question 7: Are there any other issues that you wish to raise in the context of this call for evidence?

Appendix 2 - Glossary

D

[DG Markt](#)

The Internal Market and Services Directorate General

B

[EBA](#)

European Banking Authority

[ESMA](#)

European Securities and Markets Agency

[EURIBOR](#)

European Interbank Offered Rate

F

[FCA](#)

Financial Conduct Authority

I

[ICE](#)

Intercontinental Exchange

[IOSCO](#)

International Organisation of Securities Commission

[IPRO](#)

Independent Price Reporting Organisations

L

[LIBOR](#)

London Interbank Offered Rate



M

MAD

Market Abuse Directive

MAR

Market Abuse Regulation

MiFID

Markets in Financial Instruments Directive

N

NRA

National Regulatory Authority

O

OTC

Over the counter market

P

PRA

Price reporting agency

R

REMIT

Wholesale Market Integrity and Transparency Regulation

Appendix 3 - Feedback Questionnaire

1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments?

1.2. Please send your comments to:

Andrew MacFaul
Consultation Co-ordinator
Ofgem
9 Millbank
London
SW1P 3GE
andrew.macfaul@ofgem.gov.uk