

Market Facilitator Governance Consultation Response Form

Publication date: 18 September 2025

Please use this response form to respond to the Market Facilitator Governance Consultation which was published on Thursday 18 September 2025.

Please submit your response to flexibility@ofgem.gov.uk by 5pm on Thursday 16 October 2025.

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| Confidentiality |
| We will publish non-confidential responses on our website. However, You can ask us to keep your response, or parts of your response, confidential. |
| Do you want all or part of your response treated as confidential? If yes, please confirm if all or part of the response should be treated as confidential and if so, which part Yes / No (delete as applicable) |

Questions

Annex A – Draft Governance Framework Document

Q1. Do you agree that the Draft Governance Framework Document clearly defines the scope, roles & responsibilities and deliverables of the Market Facilitator? If not, what would you change and why?

The Draft Governance Framework Document specifies the scope, roles, and responsibilities of the Market Facilitator. It outlines the main deliverables for the Market Facilitator, including the Flexibility Market Rules, a two-year delivery plan, annual delivery schedule, implementation tracker, strategic advice, and annual budget.

The document, however, only sets a timeline for the annual budget and does not provide timelines for other deliverables. Including timelines in advance would improve market awareness regarding these deliverables and inform expectations around future rules. For instance, there is no specified delivery date for the required two-year plans. As of this consultation, Elexon has produced its initial delivery plan two months prior to the go-live date of 1 January 2026, which allows a limited period for market stakeholders to prepare for the coming two years. Short implementation timescales may affect investor confidence, particularly during periods of high flexibility activity. It is also essential that the delivery plan set out by the Market Facilitator is assessed at the outset by Ofgem prior to its start date, and performance judged following the end of the delivery plan.

The recent consultation on the Market Flexibility Rules by Elexon was held close to the intended implementation dates, which may be challenging for industry reforms of this scale. DNOs and NESO have had a limited timeframe to establish internal processes for compliance with the rules, resulting in resource mobilisation within short periods and an increased potential for errors. Concurrent consultations from Elexon and Ofgem near implementation has reduced the opportunity for thorough review of the rules.

In addition, as part of the Flexibility Market Rules, it has been suggested that the deliverables also include a checklist so that DNOs are informed about the timing and requirements of post-implementation submissions. This could be included in Paragraph 3.8 as: “DNOs and NESO will be required to adopt and adhere to the Flexibility Market Rules, as set out in licence conditions added to both the Electricity Distribution Licence and NESO’s Electricity System Operator Licence. **The Market**

Facilitator will be required to set out a detailed checklist of requirements to help DNOs and NESO adhere to the Flexibility Market Rules.”

Q2. Do you agree with the appeals process and the proposed performance arrangements for Elexon as the Market Facilitator? If not, what would you change and why?

The Market Facilitator Governance Document does not currently specify the process that the Market Facilitator must follow to set or amend the Flexibility Market Rules. These rules are incorporated as part of a Licence condition applicable to DNOs and NESO; therefore, any changes should align with the procedures established for licence modifications. A high-level scope is outlined in Paragraph 4.33. SSEN notes that this section may lack sufficient procedural detail, which differs from practices outlined in comparable governance documents. It is required that these requirements be explicitly defined within the governance document.

Additionally, the Governance Document does not detail the process by which the Market Facilitator may report breaches of the Market Flexibility rules to Ofgem, nor the procedure Ofgem would use to resolve disputes between the Facilitator and Market Participants. Clarification of these processes is considered essential due to the involvement of an external regulator - the Market Facilitator - which differs from standard arrangements where Ofgem acts as the regulator and enforcer for licence conditions.

In relation to the appeals process for changes to a Flexibility Market Rule or the Market Facilitator Governance Framework, it is not currently clear whether the Market Facilitator has authority to alter the Governance Document independently. The understanding is that the Governance Document, supported by a licence condition, can only be amended by Ofgem after following established procedures. This process should remain distinct from the process used by the Market Facilitator to propose changes to the Flexibility Market Rules. It is considered inappropriate for the Market Facilitator to define its own governance document.

Regarding the appeals process for amendments to the Flexibility Market Rules and related Governance Document, Paragraph 4.43 specifies a 14-day period for lodging an appeal. Paragraph 4.49 states that if an appeal does not meet the criteria set out in Paragraph 4.48, it will be rejected. The 14-day time frame may be insufficient for market participants to prepare a comprehensive appeal application and could limit opportunities for successful appeals. An extension to a 30-day window is suggested to enable thorough assessment and preparation.

With respect to performance arrangements, it is expected that the market facilitator's two-year delivery plan will include appropriate Ofgem oversight from the beginning to ensure that final performance evaluations are conducted using suitable criteria.

Within the Performance Assessment process described in Paragraphs 5.7 to 5.45, there is currently no requirement for the Market Facilitator to incorporate feedback from the Stakeholder Survey into their self-assessment report. This may result in self-assessments that do not fully reflect industry perspectives. It is also anticipated that the Performance Assessment report published by Ofgem will clearly outline both successes and areas for improvement relating to the Market Facilitator, in order to support continuous improvement and effective service delivery.

Q3. Do you have any other comments on the Draft Market Facilitator Governance Framework Document?

While this is not a comment on the Draft Market Facilitator Governance Framework Document, there is a noted increase in the number of regulatory bodies being established within the industry across various areas. It is important to clearly define and scope the responsibilities of these regulators. The industry risks increased complexity in regulatory structures, which could lead to challenges in effective regulation. Ofgem should work to maintain streamlined market arrangements within the electricity sector over the coming decades. Achieving decarbonisation efficiently will depend on clear and consistent regulatory frameworks.

Annex B – Draft Market Facilitator Impact Assessment

Q1. Do you agree that we have, to a reasonable extent, identified and understood the potential costs and benefits of implementing the Market Facilitator?

The impact assessment describes the costs and benefits of implementing the Market Facilitator. Paragraphs 3.7 and 3.8 indicate that market participants, other than the Market Facilitator, may also incur costs; however, these are not included because it is assumed that such costs would be balanced out between the preferred option and the counterfactual, given increased expertise from the Market Facilitator and changes in required engagement levels among participants including FSPs, DNOs, NESO, and the ENA. This assumption does not address the potential redistribution of costs among parties. The introduction of the Market Facilitator could lower costs for the ENA but may require DNOs and NESO to allocate more resources to meet new reporting requirements. These represent direct costs for DNOs related to staffing,

assurance, and regulatory oversight. Without these adjustments, existing Business as Usual (BaU) resources could be impacted, potentially affecting operational efficiency.

It should also be noted that this impact assessment has not taken into consideration the costs to market participants of adhering to the Market Flexibility Rules, but only the costs of implementing the Market Facilitator. Capturing these increased costs into the impact assessment is essential to reflect the true impact to the final consumers. It is recommended that a more thorough cost assessment be carried out to ensure that costs captured are reflective of all market participants.

Q2. Do you agree that we have, to a reasonable extent, identified and understood the potential impacts of the introduction of the Market Facilitator? Are there any unintended consequences of implementing the Market Facilitator that we have not identified?

The study, while evaluating potential impacts, does not consider the timing of various reports or the market disruptions associated with transitioning to a new system. For instance, Table 9 addresses the Market Outcome of the Delivery Plan/Schedule with respect to a clear market reform roadmap; however, the Delivery Plan for 2026 to 2028 was published just two months before implementation, leaving flexibility markets uncertain about future developments. Such delays may undermine investor confidence; an aspect not reflected in the assessment of potential impacts.

Similarly, the Flexibility Market Rules that DNOs and NESO must comply with do not consider the increased reporting requirements posed by new templates and heightened granularity compared to the current system. As a result, DNOs and NESO will be required to invest in updated systems to efficiently capture this data. There is also a risk of unintentional non-compliance due to the complexity and sheer volume of reporting obligations placed upon DNOs. These factors should be recognized as costs or addressed under potentially negative Market Outcomes.

Annex C – Licence Changes

Q1. Do you agree with the updated proposed Definitions to be added to the Standard Conditions of the Electricity Distribution Licence and the ESO Licence? Are any changes required?

This response relates solely to the proposed licence changes to the Electricity Distribution Licence, and not to the ESO Licence.

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| Yes, we agree with the proposed definitions to be added to the Electricity Distribution Licence. |
| Q2. Do you agree with the updated proposed licence condition clauses for Flexibility Market Rules to be added to both licences? Does the current drafting deliver the policy intent? Do you have any suggested changes? |
| As previously set out, we think that the amendment of Flexibility Market Rules should be in line with the requirements to amend a licence condition, as it is treated as such within the wording of XX.2. |
| Q3. Do you agree with the updated proposed licence condition clauses for implementation monitoring to be added to both licences? Does the current drafting deliver the policy intent? Do you have any suggested changes? |
| Yes, we agree with the updated proposed licence condition for implementation monitoring to be added to the distribution licence. |
| Q4. Do you agree with the updated proposed licence condition clauses for Market Facilitator input into NESO service design to be added to the ESO Licence? Does the current drafting deliver the policy intent? Do you have any suggested changes? |
| No comment. |
| Q5. Do you have any additional comments or suggestions? |
| No comment. |

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