



7 January 2009

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The Office of Gas and Electricity Markets
9 Millbank
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By email: industrycodes@ofgem.gov.uk

Dear Mark,

Thank you for the opportunity to comment on Ofgem's proposals to prevent Authority decisions on code modifications being 'timed out'.

By way of background to our response we have provided three appendices to this letter, summarising the key factors in the formulation of BSC Implementation Dates:

- Appendix 1 – Existing development process for BSC Implementation Dates;
- Appendix 2 – Process diagram; and
- Appendix 3 – Examples of a critical path.

In the main body of our response we provide our views on the practical implications of the proposals set out in your letter, including the processes which we believe would be required to support the proposals and any areas where further clarification/consideration would be useful. We would welcome the opportunity to discuss these matters further with you during Ofgem's development of any more detailed proposals.

We do not comment here on the merits of the proposals. As you note, the previous BSC consultation on the subject of Implementation Dates received strong responses from industry. We are aware that the BSC Panel intends to provide a separate response. The aim of our response is to ensure that any process for developing further Implementation Dates after the submission of a Final Modification Report maintains ELEXON's and the industry's ability to implement approved modifications reliably and robustly, consistent with the requirements of the BSC.

The BSC already contains provisions under which revised Implementation Dates can be developed for modifications which have been approved or rejected by the Authority but subsequently become the subject of an appeal to the Competition Commission or a judicial review. Our response therefore focuses on circumstances where the Authority may be unable to make its decision on a pending proposal before the latest 'decision by' date set out in the Final Modification Report.

Practical implications of Ofgem's proposals

a) A 'variation' in timetable or a new Implementation Date?

Under Option A in your letter you refer to the Authority being empowered to 'vary' implementation timetables before reaching a decision on a modification. We would welcome further clarification on what form this variation could take, particularly if the device was used to significantly reduce the lead time for implementing a change.

Where a modification involves BSC Systems and/or key BSC Agent processes (e.g. credit cover or pricing), variation of implementation timetables at short notice could compromise ELEXON's ability to follow a reliable implementation process and deliver a robust solution. This risk could be increased if the timetable variation did not include the certainty of fixed-day implementation and cut-off dates.

Similarly, if a modification requires significant changes to Party and/or Party Agent systems and processes, participants' ability to meet the implementation timetable could be adversely affected by any sudden or uncertain variation in dates.

ELEXON and the industry would therefore require advance notice of any new proposed Implementation Date in order to plan and be ready to start implementation work on the day of the Authority's decision (this also requires certainty of the last point at which an Authority decision can be expected – in effect, a new 'decision by' date). ELEXON requires notice to ensure that the necessary resources and funds are available, and this is also likely to be the case for participants. Securing ELEXON resource would be especially important if the proposed date fell outside a standard Release, potentially requiring the use of contract staff at additional cost.

Implementation lead times are designed to optimise development testing, review cycles and other assurance activities. We generally take a risk-based approach but can potentially vary this given sufficient notice. However, overly-compressing these activities would detrimentally affect the robustness of the delivered solution and participants' confidence in the implementation effort. Lack of available time or resource could also compromise the delivery of any other approved changes being implemented in the same Release or over the same period. For these reasons it is crucial that ELEXON is involved in developing any revised implementation timetable. Whilst we can undertake some preparatory work before the Authority's decision, we would wish to minimise the risk of incurring nugatory effort/cost (e.g. if the modification was subsequently rejected) since this would be funded by Parties.

For the rest of our response, we assume that the Authority would determine a new Implementation Date, with an associated 'decision by' date – whether directly (Option A) or through the Panel (Option B).

b) Are the original impact assessments still accurate?

The application of either of Ofgem's proposals to a particular modification may occur many months after the original impact assessment responses were considered by the Panel.

ELEXON would strongly advise against determining any further Implementation Date(s) without first confirming whether these original assessments remain accurate. Reasons why the impacts, costs and lead times may have changed could include:

- A change in baseline – other changes may have been approved in the interim, resulting in a different set of system, document and/or process impacts to those originally identified. These in turn may affect costs and lead times.
- A change in implementation approach – the lead time provided in a Final Modification Report for delivery in a fixed Release is not necessarily the lead time which would be required to deliver a modification as a stand-alone project. The costs of a stand-alone implementation are also likely to be higher.¹

In practice, ELEXON would advise Ofgem or the Panel on the key implementation activities, their associated timescales and costs, and their interaction with our usual Release schedule. To establish the overall 'critical path', revised impact assessments would need to be commissioned from affected participants. BSC Agent and service provider impact assessment requests would be issued by ELEXON as manager of the relevant contracts. We also maintain specific contact lists for Party, Party Agent, Transmission Company and Core Industry Document holder impact assessments, which we would be happy to use on Ofgem's behalf under Option A.

Although we would be flexible in the timescales for a revised impact assessment, we would need to provide enough time for participants and service providers to obtain the required information from within their organisations (usually between 5-10 Working Days for BSC Agents under the governing service levels). We recommend that any consideration of potential further Implementation Dates begins far enough in advance of the last 'decision by' date in the Final Modification Report that full impact assessments can be conducted, the overall minimum lead time established, and a new Implementation Date determined (and consulted on if appropriate) before the original 'decision by' date times out. Under Option B, one or more Panel meetings would also be needed. Although five days' notice is usually required to convene a meeting, we could hold an urgent Panel with one day's notice.²

c) When and how would consultation take place?

While revised industry impact assessments would be a practical necessity for ELEXON, we believe that the question of whether to conduct an additional industry consultation is a matter for Ofgem to determine based on considerations of good regulatory practice.

Under Option B, we have assumed that ELEXON would issue the consultation on behalf of the Panel. We would normally consult after the revised impact assessment responses are returned. Our usual consultation timescales are between 5 and 10 Working Days (again, some flexibility would be possible).

For Option A, we would welcome further clarity as to whether Ofgem would issue the consultation directly or through the Panel/ELEXON.

¹ See Appendix 1 for further details.

² Where the Panel Chairman deems a matter to be urgent, the Code allows a minimum of one hour's notice for a meeting. However, in practice we would allow one day to ensure that as many Panel Members as possible are available.

d) Should any supporting processes be documented in the BSC?

For both Options A and B, Ofgem's intention is to introduce new obligations within the Transmission Licence. Transmission Licence provisions are usually high level, with the detailed processes contained in the relevant industry codes. The industry may wish to develop and document the supporting processes within the BSC, in order to give certainty regarding the steps which would be taken. This may especially be the case for Option B, since most of the processes would be carried out by the Panel and ELEXON. Such certainty would also help ELEXON ensure a robust implementation process.

Following Ofgem's development of the licence changes, ELEXON would therefore recommend that the Panel raises a Standing Issue or Modification Proposal to consider the most robust and efficient supporting processes. We would welcome your views on the appropriateness of such an approach.

Next Steps

Should you have any questions on this response or would like to discuss any points raised in more detail, we would be pleased to help. In the first instance please contact Kathryn Coffin (020 7380 4030) or David Jones (020 7380 4213).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stuart', with a stylized flourish underneath.

Stuart Senior
Chief Executive

List of Appendices

Appendix 1 – Existing development process for BSC Implementation Dates

Appendix 2 – Process diagram

Appendix 2 – Examples of a critical path

Appendix 1 – Existing development process for BSC Implementation Dates

We describe below the key determining factors behind BSC Implementation Dates, and the process for developing these dates. We have also provided a summary diagram of the process in Appendix 2.

a) Identification of lead time through impact assessments

The first and overriding determinant of a BSC Implementation Date is the optimised lead time (taking into account costs and resourcing) in which it is possible to implement a modification reliably and robustly. This includes consideration of:

- Any systems development, testing and implementation/deployment required by ELEXON, BSC Agents, service providers, the Transmission Company and other code administrators (e.g. for the MRA Data Transfer Network);
- Any necessary changes to, or development of, BSC documentation or other code documentation (e.g. MRA Data Transfer Catalogue) – requiring industry review cycles and relevant approvals;
- Any specific timescales and/or dates for the cut-over from 'old' to 'new' processes (e.g. the interaction between the introduction of a new Line Loss Factor methodology under P216 and the existing annual submission of LLFs for each BSC Year);
- Any lead times required by Parties and/or Party Agents to implement their own system, process and documentation changes (some modifications, such as the introduction of a new Performance Assurance Framework under P207, have required a significant preparation time for Parties).

Shortening the optimum lead time will usually result in higher costs, more required resources, and greater risk.

The impacts of a particular modification, the lead time needed to make the required changes, and the costs associated with those changes are established through impact assessments conducted by ELEXON before the submission of the Final Modification Report. Depending on the scope of the modification, impact assessments may be sought from:

- ELEXON internal departments;
- BSC Agents³ and service providers (e.g. Market Index Data Provider);
- The Transmission Company;
- Other code administrators;
- Parties; and/or
- Party Agents.

The impact assessment responses are considered by the Panel (and by a Modification Group if one has been formed) before proposing any Implementation Date to the Authority. The date takes account of the mode of the lead times given by Parties and their agents, but does not necessarily match the longest requested lead time.

³ A list of the different BSC Agents can be found in Section E1.2.5 of the Code.

b) Choice of implementation approach

The second determinant of an Implementation Date is whether the modification is to be implemented as a stand-alone change or as part of a BSC Release. This is usually decided after the impact assessment responses have been returned.

The majority of BSC Implementation Dates are aligned with specific BSC Releases (Releases occur in February, June and November of each year). Advantages of implementation in a Release can include:

- Lower central implementation costs for ELEXON, BSC Agents and service providers, since systems and documents only need to be opened up once and planning, monitoring and management activities/resource can be shared across changes in the Release;⁴
- Optimisation of ELEXON internal resource, reducing the need for contract staff;
- Lower impact for Parties and Party Agents, by reducing the number of times in which they need to open up their own systems and documents for change and by providing certainty on potential Implementation Dates for years in advance; and
- Lower impact on the MRA, as BSC Releases are aligned with the MRA's own release dates (this also supports easier co-ordination of implementation effort for Parties and Party Agents).

Implementation outside a Release as a 'stand-alone' change can occasionally be more appropriate. For Code-only changes, where there is no potential cost-saving from inclusion in a Release, the Panel usually recommends an Implementation Date of 'X Working Days after an Authority decision' (with X representing the optimum lead time). Other modifications may have 'fixed day' Implementation Dates which are not tied to a Release, if there is a particular case for such an approach. For example, a 1 April date could be used to coincide with the start of the BSC Year or Parties' annual contract rounds.

c) Agreement of 'decision by' and fallback dates

Where a 'fixed day' approach is adopted (and regardless of whether this date is tied to a Release), the Panel's Final Modification Report includes a date by which an Authority decision must be received. This 'decision by' or 'cut-off' date represents the last point at which implementation work can begin if the modification is to be robustly delivered by the chosen go-live date.

The 'decision by' date is determined using the lead times provided in the impact assessments. This involves establishing the key implementation milestones and their dependencies (the 'critical path') to determine the total optimum lead time. We have provided two past examples of a critical path in Appendix 3. Note that additional ELEXON project lead time is often required on top of service provider timescales in order to undertake participant interface testing.

⁴ The extent of any cost savings depends on the number of other changes in the Release, and whether these overlap in subject area.

Using this information, ELEXON presents one or more Implementation Dates for agreement by the Modification Group (if formed) and the Panel. Traditionally, working practice has been to provide two proposed Implementation Dates within the Final Modification Report, using the following construction:

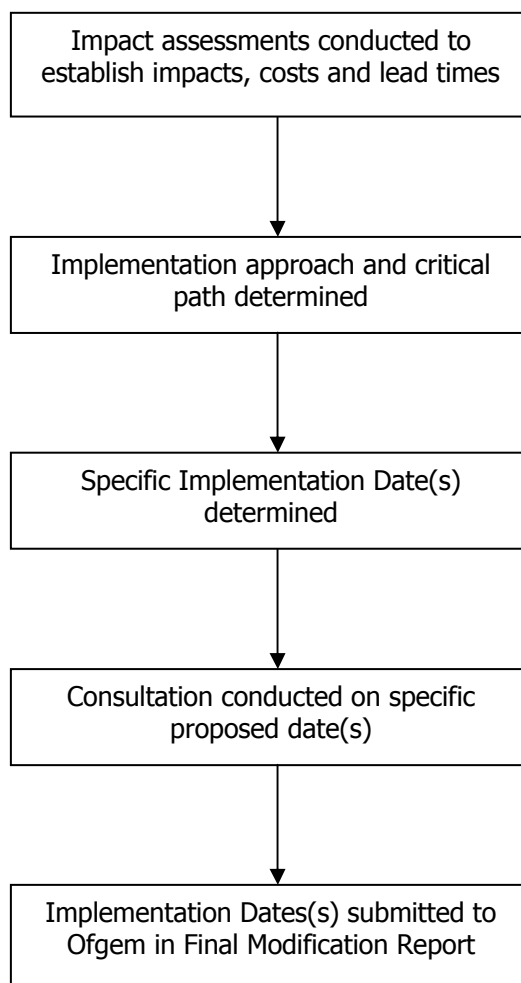
- Implementation Date 1 if an Authority decision is received on or before Cut-off Date A; or
- Implementation Date 2 if an Authority decision is received after Cut-off Date A but on or before Cut-off Date B.

d) Consultation on proposed date(s)

All proposed Implementation Dates are consulted on by the Panel after it has considered the impact assessment responses, and before the Final Modification Report is submitted to the Authority. The differences between the impact assessment and consultation are that:

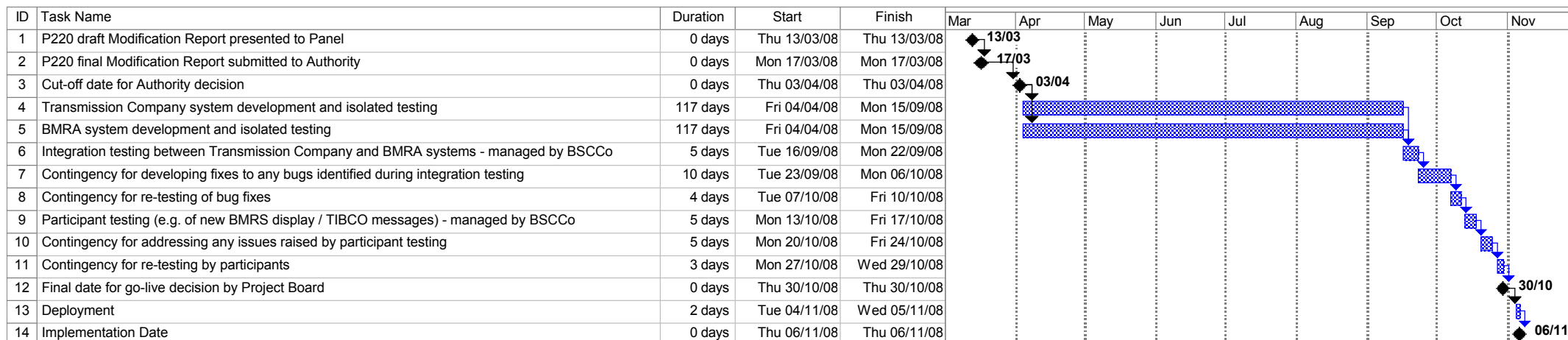
- The impact assessment seeks factual information (impacts, costs, lead time) to enable the determination of an Implementation Date, whereas the consultation seeks views on the appropriateness of specific proposed dates; and
- The consultation provides participants with an opportunity to see other organisations' impacts, costs and lead times when commenting on the suitability of the Implementation Date.

Appendix 2 – Process diagram



Appendix 3 – Examples of a critical path

Example A below shows the critical path for Modification Proposal P220 'Provision of new data items for improving market information'. In this example, testing activities were compressed to the minimum possible in order to achieve delivery in the November 2008 Release. Changes to participant systems required a shorter lead time than the BMRA/Transmission Company development and are therefore not shown.



Example B below shows the high-level critical implementation path for Modification Proposal P203 'Introduction of a seasonal zonal transmission losses scheme'. Here a 1 October Implementation Date was used to coincide with Parties' half-year contract rounds. The numerous other required implementation activities (e.g. documentation changes and amendments to existing BSC Systems) had shorter lead times and were therefore not part of the critical path.

TLFA = Transmission Loss Factor Agent

LFMR = Load Flow Model Reviewer

TLFs = Transmission Loss Factors

12-month lead time from Authority decision cut-off date of 20 September 2007

