

BEAMA response to the ofgem consultation on the Network Innovation Competition (NIC) and Network Innovation Allowance (NIA) governance documents. 12<sup>th</sup> November 2012

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No.	Electricity or Gas and NIC or NIA	Chapter Name	Page/ Paragraph Ref	Comments	Suggested alternative drafting
	Electricity, NIC	Intellectual Property		<p>BEAMA members are concerned over the potential impact the IPR principles, as outlined in the NIC governance, may have on the development of the market.</p> <p>BEAMA members are content with the governance arrangements concerning IPR currently integrated into the LCNF process. From a vendor perspective bringing background IPR to a project, the current rules and principles are fair and the definitions of foreground and relevant foreground IPR are suitable.</p> <p>The new NIC governance outlines the need to disclose forward (and potentially fixed) pricing, for licensing of background and foreground IP, as part of the negotiation and registration process. While this is feasible in principle it may be challenging to implement. Two key issues arise from this new governance structure.</p> <ol style="list-style-type: none"> <li>1. It is not common for all vendors to price set for licensing of background IP, and generally speaking pricing is set by many factors and therefore the pricing of background IP is not a reliable comparative measure.</li> <li>2. The NIC requires an evidence based negotiation on background and foreground IP. It is currently unclear how ofgem intend to assess a NIC submission, on future costs of background IP, or through the process of fixing price certainty for other DNOs. Clarification on this is needed and without sufficient guidance DNOs could create different rules for NIC submissions which would form a barrier to participation from the vendor community, specifically SMEs who need to protect their IPR and for whom the UK will represent a large share of the market.</li> </ol> <p>A key objective of the NIC should be to ensure that access to innovation fund participation has to be available to the widest possible stakeholder groups.</p>	<p>A suitable approach would be to use the market price to establish a baseline for background IP. This will reflect the market conditions at the time and where customer's money pays for some, or all foreground IP there could be a central mechanism to integrate this back into the UK market, rather than to individual DNOs.</p> <p>Clarity and guidance for DNOs on the NIC submission process, and what would be acceptable for negotiating IP arrangements for NIC bids, needs to be provided by ofgem.</p> <p>BEAMA would like to propose that more focused discussion on this topic is initiated with stakeholders to ensure the governance structure going forward is fair for all participants and that it will not form a barrier to the development of valuable innovation projects in the market.</p>

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	Electricity NIA	General comment		BEAMA would like to see funding under the NIA allocated to specific innovation investments associated with low carbon networks and smart grid solutions. This will help to clarify the level of investment in low carbon infrastructure over the price control period and provide confidence that this market is being driven by a specific mechanism under ED1.	
	Electricity NIC, NIA	General comment (customer engagement )		<p>From experience during the LCNF programme it is recognised that the customer engagement process in projects often results in delays in delivery which in turn presents a negative perception of the project and indeed the project partners involved may also experience reputational damage. Delays to the program caused by the customer engagement conditions increase the costs of the innovation project and discourage the participation of the supply chain to avoid potential reputational damage.</p> <p>In the past project partners have been chosen on the basis that they may already have a direct relationship with the customers affected by a given project, however, the rules on customer engagement largely nullify these benefits.</p> <p>BEAMA recognises this as a very real issue and one which needs to be addressed for the ED1 innovation package. If similar conditions are required under the NIC and NIA projects BEAMA are concerned that this would limit the potential that could be gained from these programs through the lack of participation from the supply chain, and potentially slow UK market development in the low carbon technology sector.</p>	Ofgem need to consider how they can better leverage the relationship management, possibly through project partners (i.e. suppliers, local authorities) who already comply with data protection, privacy laws and other requirements.