



To transmission companies,
distribution companies,
generators, suppliers, shippers,
offshore transmission owners,
independent network operators,
customer groups and other
interested parties.

*Promoting choice and value for
all gas and electricity customers*

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Summary of responses to the informal consultation on the Network Innovation Competition (NIC) and Network Innovation Allowance (NIA) governance documents

In April 2013 we will run the first electricity and gas NICs. We expect the Initial Screening Process (ISP) deadlines to be in mid/late April and the Full Submission deadline to be in August¹. We will publish the exact dates in late January.

In October 2012 we published an informal, non-statutory consultation on the draft NIC and NIA governance documents². This letter sets out a brief summary of responses to this consultation. It also sets out details for a planned meeting of the Innovation Working Group (IWG) on 6 February.

We received 19 responses to the consultation from a range of stakeholders including Network Licensees, Trade Associations, Universities and Technology Providers. We have published non-confidential responses on our website.

We welcome these responses from stakeholders. We have considered the comments and proposed amendments. We have made appropriate revisions accordingly.

The NIC and NIA governance documents have now been published and are currently undergoing consultation from 21 December 2012 to the 22 January 2013 alongside the relevant licence conditions so that, subject to any representations, they will come into effect for the start of the RIIO-GD1 and RIIO-T1 period on 1 April 2013.

Summary of Responses

General Comments

Respondents welcomed the opportunity to comment on the draft documents and highlighted they were pleased with the opportunity to support the development of the documents during the past year through the IWG. Respondents also suggested a number of points of clarification within the draft text. We have adopted a number of these suggestions.

¹ The NIC involves a two stage competitive process. During the first stage - ISP - we assess the eligibility of projects for funding, the second stage - Full Submission is where we determine which projects will be awarded funding.

² See [here](#) for further details

Two respondents raised some concerns about the requirements related to the customer engagement plan, and asked whether these arrangements could be simplified. One in particular felt the customer engagement requirements could be seen as a barrier to energy efficiency solutions. We have examined these concerns. The customer engagement plan is a key component of the LCN Fund Governance upon which we have based the NIC and NIA arrangements. We consider that at least for the first couple of years of the NIC and NIA it is appropriate to maintain these requirements. Many of the network licensees may be involved in new interactions with customers through innovation projects and the customer engagement plan is to ensure consumers, particularly vulnerable consumers, are protected. However, if experience from the competition suggests the customer engagement plan is materially affecting projects, we have the opportunity to review this in future years³.

A number of respondents raised points relating the collaboration portal that network licensees are required to develop. All RIIO network licensees should assist in the development of this portal, and we expect that non RIIO network licensees who bid for projects through the NIC should assist in any development of the portal during the course of the price control. This may include contributing to the costs of running the portal. Network licensees will be able to recover reasonable costs associated with the development and use of the portal through their bid preparation costs⁴.

Intellectual Property Rights (IPR)

A number of respondents welcomed our proposed changes to the IPR arrangements for both the NIC and NIA and stated these should remove some of the barriers that they felt previously existed. Respondents raised a range of points around the specific drafting of the IPR chapters and two respondents provided alternative drafting for the chapters.

We are keen to ensure that the IPR arrangements are proportionate and ensure the interests of consumers are protected, given that they are funding these projects. We also want to ensure the arrangements do not present barriers to collaborators including small and medium enterprises (SMEs). We welcome the constructive comments raised by current and potential collaborators on LCN Fund, NIC and NIA projects.

NIC specific IPR arrangements

We have updated the drafting to clarify that as part of Full Submission, the network licensee must set out its approach to IPR, including *the approach to ensure fair and reasonable future use of IPR by other network licensees* so they may reproduce the outcome of the project. We recognise that at the bid stage it may not be possible to set out the exact negotiated value for the use IPR, but we expect the network licensee to set out the mechanism by which this will be agreed in the future.

Based on the suggestion of one respondent, we have also adopted some additional explanation to clarify what is meant by Foreground IPR (that it could be application or product based⁵). We think this clarification is useful as it provides clarity of what different types of foreground IPR may be needed for another network licensee to reproduce the outcome of the Project.

Based on comments, we have revised the definition of commercial products to “products which have background IPR identified to them prior to the start of a project”.

³ We have committed to review the governance arrangements after at least two years.

⁴ ie through their NIA for RIIO network licensees or as part of their bid for non RIIO network licensees.

⁵ Foreground IPR could comprise of IPR which describes the application of a Method to a network and the benefits that can accrue. It could also include the IPR that describe how a product (for example a piece of equipment and or software), that is used to implement a Method achieves its functionality.

NIA specific IPR arrangements

Following comments from IWG, we significantly simplified the IPR approach for the NIA and consulted on these revised arrangements⁶. Now, the NIA IPR arrangements differ to the LCN Fund and the NIC arrangements. They require a licensee to enter into arrangements with project partners that provide best long term value to consumers during, and following the completion of a NIA project for the use of background IPR and any commercial products. Network licensees can negotiate the most appropriate arrangements for background IPR and commercial products for each project, if it can be justified how the arrangements deliver value for money for all customers. This should give the flexibility that they need to adopt IPR arrangements on a case-by case basis for NIA Projects and address the concerns raised through the IWG.

We recognise the concerns raised by some respondents regarding the transition to the NIA from the Innovation Funding Incentive (IFI). We note that any projects that have already been fully funded under the IFI will not need to conform to the NIA governance document. Only projects that are wholly or partly funded under the NIA will need to do so. We also note that the governance document allows for licensees to propose alternative IPR arrangements where they are unable to conform to the default arrangements. We will then make a decision whether or not to allow these alternative arrangements.

Next steps

On 6 February 2012 we plan to hold an IWG meeting. At this meeting we intend to discuss the process for running the competitions in 2013 and the innovation stimulus arrangements for RIIO-ED1. We therefore encourage anyone wishing to bid in the 2013 competitions to attend.

Should you wish to discuss the points raised in the letter, or attend the IWG, please contact Nicola Meheran on 020 7901 0515 or email networks.innovation@ofgem.gov.uk

Yours Faithfully,

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⁶ See [here](#) for further information.