

Workshop – Implementation of Changes to the gas central service provider, Xoserve

This note provides a summary of the discussions at the workshop on the implementation of changes to Xoserve

From
Date and time of
Meeting
Location

Ofgem
06 December 2013,
1.30pm
Ofgem's office, 9
Milbank, London

1. Introductions and purpose of workshop

Ofgem outlined the aims of the workshop¹ which were:

- to discuss, and ensure understanding of, the options for implementing our decision on new funding, governance and ownership arrangements for Xoserve, the gas transporter central agent²; and
- to agree on the additional work streams that we expect the industry to take the lead on to progress implementation, including a discussion around the timetable and the roles of individuals in delivery.

The workshop was divided into two sessions. The first session would be a discussion on the options for the new legal and regulatory framework. The second session would discuss the other work that will need to be undertaken to implement the decision. A brief summary of the background to the Xoserve review was provided including our conclusions published in October 2013.

2. Legal and regulatory framework

2.1 Key objectives

Ofgem outlined the key objectives for the new framework which our consultants, CEPA³, outlined in the October 2013 report.⁴ These were:

1. Facilitate a responsive and client facing IT and data service provider
2. Achieve alignment of obligations, risks and control
3. Ongoing operation of arrangements to be industry led
4. Be simple and practical to both implement and operate
5. Retain regulatory oversight to ensure the protection of public interest

One attendee thought that the objectives should include reference to the quality of service provided by Xoserve.

The group discussed how Xoserve's budget would be set and approved. One attendee asked whether an Annual General Meeting (AGM) would be required, ie stakeholders would

¹ The Slides used in this meeting are also available on the Ofgem website.

² [Xoserve - decision in relation to new funding, governance and ownership arrangements for the gas transporters' central agent](#), October 2013.

³ [Cambridge Economic Policy Associates](#)

⁴ [Legal and regulatory implementation report](#), CEPA, October 2013.

be required to approve (or reject) the budget. Ofgem responded that it would be Xoserve’s board’s duty to set the budget, reflecting all stakeholders’ views.

One attendee requested that we not use the acronym CSP (central service provider), to avoid confusion with the use of this acronym in relation to smart metering.⁵

2.2 Framework options

Ofgem briefly outlined the key characteristics of the four options for the legal and regulatory framework.

	Amend GT licences	Amend GT and shipper licences
CSP not a party to the UNC	<p><u>Option 1</u></p> <ul style="list-style-type: none"> • GT licence - high level requirements of CSP • UNC - binds GTs and shippers (via rights and obligations) to joint arrangements & sets out the principles of arrangements • Service agreement(s) - between CSP and users sets out service requirements from the CSP 	<p><u>Option 2</u></p> <ul style="list-style-type: none"> • Licences - binds GTs and shippers to certain aspects of the joint arrangements • UNC - binds GT and shippers to the detail of arrangements • Service agreement(s) - between CSP and users sets out service requirements from the CSP
CSP becomes a party to the UNC	<p><u>Option 3</u></p> <ul style="list-style-type: none"> • GT licence - high level requirements of CSP • UNC - binds GTs and shippers (via rights and obligations) to joint arrangements & sets out the principles of arrangements • UNC - main depository for all CSP requirements 	<p><u>Option 4</u></p> <ul style="list-style-type: none"> • Licences - binds GTs and shippers to certain aspects of the joint arrangements • UNC - binds GT and shippers to the detail of arrangements • UNC - main depository for all CSP requirements

These options were proposed by consultants CEPA in the October 2013 report. The group then discussed the options in more detail.

Options three and four

Ofgem stated that implementing options three and four, which would require Xoserve to be party to the Uniform Network Code (UNC), was not currently its preferred route to achieving implementation.

Some of the group agreed that Xoserve should not be party to the UNC as this could create unnecessary constraints on it. For example, it may limit the ability for Xoserve to deliver non-code services. They considered that Xoserve should concentrate on the delivery of services.

However, some considered that it may be in all parties’ interests for Xoserve to be party to the UNC.

The group discussed whether being party to the UNC would offer Xoserve any protection in the event of failure by one or more parties to fund service delivery or equally offer users

⁵ In relation to smart metering CSP stands for the Communications Service Provider.

additional protection against Xoserve's failure. One attendee suggested that this could be a good reason to consider these options.

The group concluded that they needed further information and time to fully consider the arguments for and against Xoserve being a party to the UNC. Ofgem agreed to consider this as part of a further consultation on the framework options.

Options one and two

The group discussed whether option one or two would be preferable.

Some attendees thought that it would be preferable to have joint requirements (in relation to governing and funding Xoserve) in the UNC (option one). There was a discussion about whether this would have the same effect as requirements being in the shipper licence, given there is no direct licence requirement on shippers to be party to the UNC. It was noted that in reality shippers cannot conduct their business without complying with the UNC. Therefore placing requirements in the UNC would in effect require all shippers to comply. It was also noted that placing requirements in the UNC could mean greater flexibility as the UNC is relatively easier to modify compared to licences.

Some attendees thought the clearest method of ensuring shared responsibility would be through modifying both GT and shipper licences (option two). It was also suggested that using the shipper licence would be a more effective way of focusing shippers' senior management on ensuring successful delivery.

One attendee suggested that the licences needed to only set out high level obligations, with further detail included in the UNC.

Most attendees felt that they needed more detail in order to make an informed choice on their preferred option. Ofgem agreed to consider this as part of a further consultation on the framework options.

Other discussions on the legal and regulatory framework

There was a discussion on the use of a service agreement (or multiple service agreements) and how it would work in practice if option one or two were taken forward. The group considered that this would need to be discussed as part of the implementation phase. Ofgem clarified that the licences and/or the UNC would outline what is required of Xoserve and its contracting parties. The service agreement would then act as the contract that binds Xoserve to arrangements.

There was a discussion on how to resolve any dispute over service agreement terms. This included a discussion about how a breach of contract by a shipper would be dealt with under option one, where joint requirements would be in the UNC rather than in the licences. The group queried Ofgem's role in resolving such a dispute. Ofgem pointed out that it had no desire to intervene in minor disputes over requirements placed in the service agreement.

There was a discussion about who would have responsibility for the creation and updating of the service agreements. Ofgem stated that any changes to arrangements in a licence or the UNC would need to be reflected in service agreements, with the UNC outlining this requirement. A failure to make such amendments would therefore result in a breach of the UNC.

The group discussed whether Xoserve would be allowed to participate in other activities and whether it could make a profit. Ofgem reiterated its decision that Xoserve would be a not for profit organisation but that this would not preclude it from delivering services other than those in the UNC.

The group also discussed how Independent Gas Transporters (IGTs) would fit into the new framework in light of the current progress being made towards single service provision.⁶ Ofgem stated that there should be flexibility for IGTs to be involved and therefore they should have a say in the development of the new framework.

2.3 Actions taken

Ofgem agreed to publish a consultation on the four options to provide all parties with a chance to provide their detailed and informed view.

3. Other implementation requirements

Ofgem outlined a high level timeline for implementation and presented its initial view on the work streams that would be required in order to implement the new arrangements:

- Service allocation – contractual framework for delivery of code and non-code services
- Annual budget process – to be developed and defined
- Cost allocation methodology and charging statement – for code services this should be incorporated in the UNC
- Invoicing arrangements – options to be examined
- Board process – including required changes to the articles of association and UNC
- Shadow board arrangements – creation of transitional arrangements
- GT reopener - review ex ante allowance for Xoserve's costs

Ofgem stated that it expected the industry to take the lead and aim for implementation by April 2015, a date supported by the majority of respondents to our consultation.

3.1 Initial views on work streams

The group agreed that the suggested work streams covered everything that needed to be done. The group discussed whether there needed to be individual work streams or just one working group to discuss all areas. Some preference was given to the latter due to the same people needing to be involved in all work streams. Others felt that there would be too much detail to consider for just one working group to cover. One option proposed was to establish one main working group which with a number of sub groups for each area which could report back to the main group.

The group felt that there would be some areas where GDNs and shippers would not agree. A number of attendees requested clarification from Ofgem on its role in such circumstances. In these cases it will be the role of the working group to clearly articulate any such differences to assist Ofgem in making its final decision.

3.2 Project management/Resource constraints

There was a discussion on procuring project management/consultancy support. Some attendees thought that there was a need for a central project management role to drive forward this work. It was suggested that one option would be for the ENA to play this role. GDNs took away an action to discuss this at the next GDN forum. One attendee suggested that Xoserve itself should have a project coordination role.

There were questions about Ofgem's role and whether it would attend working groups. Ofgem confirmed that it would attend and contribute to relevant working groups when required but stressed that it expected the industry to lead on implementation.

⁶ Modifications to the UNC and IGT UNC are being progressed which may result in IGTs using Xoserve to deliver shipper facing services which IGTs currently provide separately.

3.3 Timelines

The gas distribution networks (GDNs) and shippers stressed that they regarded Project Nexus⁷ as the number one priority and would not want this work to delay Project Nexus. Ofgem acknowledged that Project Nexus was important but didn't see any reason why the Xoserve review could not also be delivered on time.

The group also stressed that other industry change processes should be taken into account including those on the transmission side in relation to compliance with new European network code requirements.

3.4 IGTs

IGT representatives asked whether they should engage in this work. Ofgem felt that IGTs should participate from the outset given the progress being made towards single service provision, which is also due to also be in place in 2015.

3.5 Shadow board

Attendees discussed establishment of a shadow board which could then become the new board at implementation. Some questioned the value of setting up a shadow board and what its function and responsibility for decision making would be. Others felt it would be useful in order for any new board members to gain experience prior to going live.

3.6 Other points raised

The group touched on a number of other issues which would need to be discussed further at the implementation working group(s).

The group briefly discussed the outstanding issue of which approach to take to invoicing.⁸ One attendee did not see the benefit of invoicing via the GTs if shippers could be invoiced directly. Others thought that invoicing via the GTs was a simpler and more cost effective solution.

One attendee asked about auditing. In particular they queried whether Ofgem would carry out any auditing of Xoserve's accounts. Ofgem replied that it would not have the authority to carry out any auditing.

The group discussed budget setting. Attendees wanted there to be medium to long term business plans as well as an annual budget.

3.7 Actions taken

Ofgem to provide guidance on the process it intends to follow and the process it expects the industry to follow in the implementation phase. In particular on how it will resolve any disputes between industry parties on the best approach for implementation.

GDNs took an action to discuss procurement of project management support for the implementation phase.

⁷ Project Nexus is considering the replacement of the suite of systems (UK Link) that are required to run Britain's competitive gas market.

⁸ Our decision did not reach a conclusion on this. Instead we outlined the requirements that invoicing arrangements would need to achieve.

4. AOB

One attendee suggested that Xoserve and the Joint Office of Gas Transporters (who administer the UNC) could be merged. Ofgem highlighted its decision document where it had stated that this was not within the scope of the current Xoserve review but that this did not preclude such a change in the future.

5. Summary of actions taken

Ofgem will publish a consultation on the four options before making a decision on the appropriate way forward. We aim to publish this consultation in February 2014.

Ofgem will provide guidance on the process it intends to follow and the process it expects the industry to follow in the implementation phase. We intend to publish further information alongside our consultation in February 2014.

GDNs took an action to discuss procurement of project management support for the implementation phase at their next meeting scheduled for December 2013. They agreed to report back to Ofgem on the outcome of this discussion in due course.