



Consultation Response

By email to stateofthemarket@ofgem.gov.uk

Ref: **Ofgem/MIR**

23 May 2014

State of the Market Team

Ofgem

9 Millbank

London SW1P 3GE

ELEXON's response to consultation on a proposal to make a Market Investigation Reference in respect of the supply and acquisition of energy in Great Britain

We welcome the opportunity to respond to this consultation. ELEXON's response is restricted to specific observations relating to the section entitled 'Wider barriers to entry and expansion'. We have no view with regards to whether a Market Investigation Reference is necessary. However, we do believe there is merit in Ofgem considering the points made in our response, whether or not a Reference is made, as potential improvements we identify to facilitate competition are achievable using Ofgem's existing powers.

ELEXON believes there is an opportunity for Ofgem to work with ELEXON and others to encourage greater competition by:

- reducing the complexity of industry codes and agreements and significantly reduce the cost of participation and compliance;
- improving the market entry experience for new licensees through a simpler market entry process, building upon the improvements and shared approach developed by ELEXON for BSC users;
- reviewing the reporting obligations across industry and avoiding unnecessary duplication of data across the industry thereby reducing the costs and burden of reporting and monitoring.

We would be happy to discuss improvements we have made which make it easier for users to engage with our central industry arrangements and how we can help to drive further improvements with Ofgem and industry based on the suggestions contained in our full response below. If you would like to discuss any areas of our response, please contact me on 020 7380 4213, or by email at david.jones@elexon.co.uk.

Yours sincerely

David Jones
Senior Regulatory and Market Advisor

Ofgem consultation on MIR

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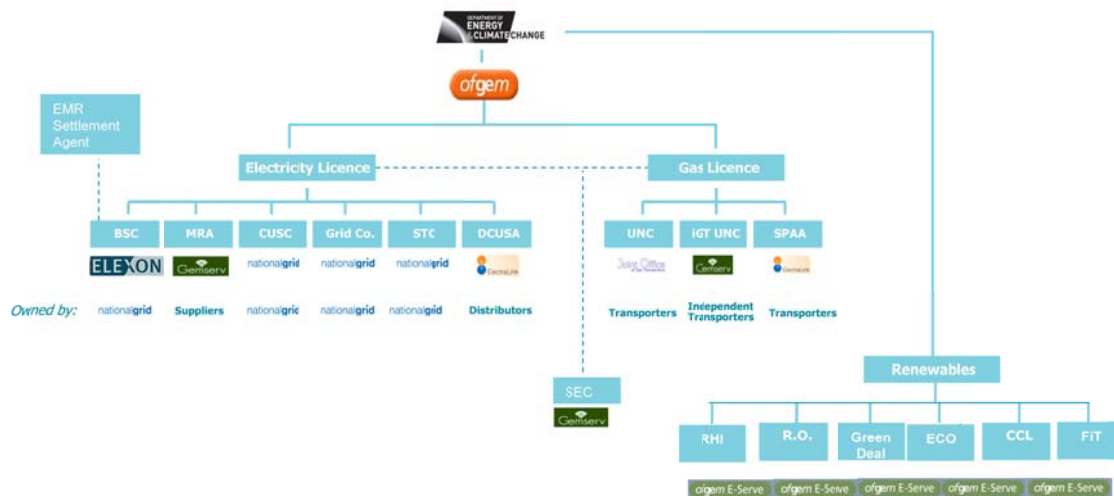
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1) *Facilitating competition through reducing the complexity and plethora of industry codes and agreements*

In section 3.29 of your consultation you make reference to the complexity and costs of compliance and engagement with the regulatory framework that support the energy markets. We would wholeheartedly agree with this observation and have discussed similar concerns with existing participants and new entrants.

As well as complying with the licence regime overseen by Ofgem, the GB energy industry operates within the framework of a large number of industry codes and agreements delivered by multiple central service providers.

These codes and agreements set out the rules and obligations on (mainly licensed) organisations that participate in the transmission, distribution, generation and supply of gas and electricity. The diagram below shows a selection of the main industry codes and includes the environmental/energy efficiency schemes and agreements:



We believe that the number of codes is excessive and using multiple delivery bodies inevitably results in differing practices. There is an opportunity to merge and rationalise delivery of these codes, systems and services. This will remove potential barriers to competition and create efficiencies in the operation of the market which will ultimately benefit consumers and competition.

Most of these industry codes and agreements apply to the industry players and do not directly apply to the end consumer. However as they form the basis of the industry rules for competing in the wholesale and retail markets their efficient operation and the ability of industry players to understand them does directly impact on the efficiency of the arrangements and the end cost to consumers. Any review should consider the opportunity to reduce the fragmented nature of the wider regulatory framework and the complexity of the underlying industry codes and agreements. Ofgem had an opportunity to do this when it commenced its Code governance review (Part 1) in 2008, but did not do so.



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We believe that this issue is particularly pertinent to new participants who face significant challenges to entering the energy market as they have to accede to, pay charges in support of and post collateral for a large number of separate codes and agreements.

The industry codes and agreements were all developed at different times across the last fifteen years. They were each developed for specific purposes and often reflect the governance practices of their time. We believe that it is timely to conduct a review of how these codes and agreements could be rationalised and to avoid any further proliferation. We see rationalisation as critical to promoting the efficient operation of the retail and wholesale energy markets and therefore supporting effective regulation. Whilst rationalisation carries cost and effort, exploiting synergies will lead to savings in the centralised costs and reduced complexity for participants.

In support of improving the experience for market participants and making arrangements easier to deal with, we note that we have always provided valued support and guidance to new and existing participants (and other stakeholders such as government and consumer groups), for example through the use of:

- market entry support (and market entry co-ordination across codes – see point 2 below);
- introductory training (and bespoke subject training);
- dedicated operational support;
- web services and customer portals;
- weekly newscasts with a digest of the key activities, meetings and changes;
- managing cross code information sessions for industry;
- managing effective and interactive change mechanisms; and
- development of proposals and changes that improve the processes for calculating potential liabilities and reduce the collateral burden on Parties.

Feedback from our stakeholders shows that they value these services and the support that they provide. We believe that such value add activities should be reflected across all industry arrangements to help make the complex simple.

Our engagement helps ensure that all stakeholders can actively engage in the BSC processes and governance, and is invaluable to those seeking to enter or expand in the market. This impartial support is offered to all participants and is especially valued because we are independent and operate on a not for profit basis. This approach is not mirrored across the other industry codes and governance bodies.

2) Facilitating competition through improving the market entry arrangements



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New market entrants must complete a number of steps before being able to participate in the energy markets. As well as obtaining a licence, participants must accede to various codes, the number of which depends on the type of licence that is sought.

For a number of years now ELEXON has worked with Gemserv to align market entry activity across the BSC and Master Registration Agreement. This has proved useful in helping participants understand the requirements from the two agreements. We have also sought to allow for dependence to be placed on some testing conducted under the MRA and therefore reduce the testing burden on participants. We have similarly ceded some BSC provisions to the emerging Smart Energy Code in order to avoid unnecessary duplication.

ELEXON has provided certain market participant types with standard software to enable a consistent and simpler approach to market entry. It is likely that other systems required for engaging with central systems across the industry could utilise such an approach. In addition ELEXON has provided various options for new and existing users to interface with central systems, allowing freedom of choice and cost reflective solutions to suit party needs. We are building on this approach as we seek to introduce new technologies and interfaces through our Transformation Programme. This is in contrast to other areas of the industry where participants remain bound by single mandatory solutions

We believe there is an opportunity to review the entry requirements across the industry to identify efficiencies in process and arrange a more streamlined and user friendly approach that ensures new entrants have a complete view of the requirements and even co-ordinate testing. We believe that a new licensee could meet with Ofgem and other relevant parties at one or more early meetings and be guided through the process. If codes (or code administration) were to be aligned (as suggested in section 1 of this response) there would be a natural incentive to implement this approach.

3) Facilitating competition through the use of centralised data sets for monitoring and reporting

There are numerous reporting tools and data sets held across the industry that utilise many of the same (or similar) data. This spans from data submitted to and held by:

- DECC (e.g. NEED);
- Ofgem (data for monitoring licence conditions and E-serve's environmental programmes);
- Central bodies (various copies of registration information, consumption, performance reporting and standing data); and
- Industry (data sets as above).

We have already identified that certain information can be provided centrally (e.g. ELEXON provide E-serve with consumption data that allows environmental schemes to validate supplier volumes (e.g. for RO)). There are



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proposals to centralise registration data under the new Data and Communications Company (DCC) which will assist in standardising how data is held and should lead to more efficient reporting across the various data users.

We believe there is opportunity to explore how data can be used more efficiently to reduce the administrative burden on participants (e.g. reporting on renewables schemes, NEED data submissions). There should be opportunities to utilise electricity and gas settlement data for this purpose but also other rich data sets held centrally on behalf of industry.