

The findings of our review of the electricity connections market

Consultation on our proposed remedies

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Over the last six months we have reviewed the market for new connections to the electricity distribution network. The market is worth over £500m per year, with hundreds of thousands of connections made every year.

We have engaged with a large number of stakeholders during the review - we received 80 responses to our call for information, spoke to over 100 customers through our customer research and met with a broad range of connections providers. Prior to the review, we had detailed engagement with stakeholders about parts of the market. This included 14 consultations since 2010 on the levels of competition in parts of the market (through the competition tests).

This paper describes what we've found and explains what we are going to do to improve the way the market works. This is a consultation. We are asking for your views on the details of the remedies that we are proposing.

Context

Customers have a choice about who they get a connection from. This is because not all new connections to the distribution network are made by electricity distribution network operators (DNOs). Competition exists for some work. A customer can choose to use an alternative provider for some connections work known as “contestable work”.

Effective competition will help improve the quality of service that customers receive and reduce the cost of connection. Competition can also encourage innovation in the type of services on offer. A well-functioning market for connections to the distribution network should benefit us all – connections that are timely and cost-effective help the economy to grow and help to decarbonise the energy we use.

To help understand our findings, it is useful to know that, in each region, the DNO is the sole provider of a number of the key inputs needed to make a connection. It provides these to both its own connections business and also to its competitors.

Associated documents

You may find the following associated documents helpful -

- [The various competition test notices and our decisions can be found on the Competition in Connections section of our website](#)
- [Our April open letter on the completion of the competition test process](#)
- [Our June open letter and call for information](#)
- [Our October update](#) – which asked you to validate the issues we had identified in the market. Responses to the update, including commitments made by the DNOs, are also available on this link.
- [Guide to getting a connection](#)

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Executive Summary

Over the last six months we have been reviewing the market¹ for new connections to the electricity distribution network.

Our findings

We have found that competition for electricity connections has grown quickly in recent years. But there are sections of the market where competition has not developed so well. Our review has found problems that combine to limit the development of competition. Together, these can make it hard to compete against the DNO on price and the timeliness of connection. These issues also increase the perceived risk and hassle of using an alternative connection provider for customers.

Effective competition should lead to lower prices, better service and more innovation. If competition is not being allowed to develop then customers are losing out.

Many of the issues restricting competition relate to the *DNO's role in the connection process*. In each region, the DNO is the sole provider of a number of the key inputs needed to make a connection. It provides these to both its own connections business and to its competitors.

Over the last decade, the DNOs have gradually changed their processes and procedures to minimise the impact of their position in the competitive process. Electricity North West Limited and Western Power Distribution have been particularly praised by stakeholders for their recent efforts to improve. However, no DNO has independently put in place enduring arrangements to deal with all the issues. Also, across GB, we have found inconsistencies between DNOs in how they manage the competitive connection process – creating further complexity for competitors.

Our remedy

At this point, we think there is sufficient evidence to show that there are behavioural changes that can be made by the DNOs that could resolve the issues identified without the need for fundamental structural reform. This view is largely informed by stakeholders, who told us that they find the competition process for new gas connections works better than the process for new electricity connections. They attributed this to the reduced role of the gas network operator in the connection process. As such, we won't be consulting at this stage on making a Market Investigation Reference (MIR) to the Competition and Markets Authority (CMA). Instead, we are giving the DNOs a final opportunity to change their processes and behaviours to minimise their role in the connections process and ensure a level playing field.

¹ In this document and associated documentation we use the terms 'market' and 'markets' as shorthand for referring to different segments of the electricity connections sector. For the avoidance of doubt these terms are not intended to describe or otherwise suggest the approach that we may take for the purposes of market definition in competition law investigations.



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Some of the necessary changes have already been made – but there is more to do. We are acting to ensure that there is an enduring focus by all DNOs on adopting, harmonising and maintaining best practice behaviour across all of this market. We intend to do this by introducing a new licence condition to require DNOs to reduce the extent to which competitors depend on them for essential services. Where the DNO is required to provide these services, it will need to do so on the same basis to both its competitors and its own connections business. DNOs will collectively need to harmonise their arrangements for competition. This will be achieved by an enforceable code of practice (CoP) with which DNOs will have to comply.

If the CoP is not promptly developed and implemented, or we subsequently find that competition continues to be ineffective in this market, we will reconsider whether we should instead consult on making a MIR to the CMA.

We intend to introduce a new condition into the electricity distribution licence to require the DNOs to comply with the CoP. The licence condition and the CoP will be developed as follows -

- We will develop and consult on the overall obligations. We start that process through this consultation. Our initial thoughts on the structure and content of the framework level licence condition and the minimum requirements for the CoP are described below. Through this consultation, we are also consulting on the minimum requirements for the CoP. After considering your responses, we plan to make a decision in April 2015 on what the minimum requirements will be.
- DNOs will be responsible for developing the CoP through consultation. This finished CoP should be submitted to us by no later than 1 June 2015. The CoP should meet the minimum requirements, which we define, and should continue to do so over time.

If we determine that the DNOs' CoP satisfies the minimum requirements, we will launch a statutory consultation to introduce the licence condition and make the CoP take effect. To help show that the minimum requirements have been met, we will require the DNOs to demonstrate how they have consulted with competitive connection providers on the CoP.

If at any stage during the process of implementing our remedy it becomes clear that the majority of DNOs are not willing to ensure the timely development of an adequate CoP, we will need again to consider whether the issues we've identified can be resolved within the current structure of the market.

Based on this principle, we ask DNOs to give us an initial response to this consultation, by no later than 18 February 2015, explaining how they intend to work together to ensure the timely development of the CoP.

(Final responses from all stakeholders should be provided by 18 March 2015).

Our competition investigation

During the market review we received submissions relating to various specific examples of problems that competitors had encountered in working with DNOs around GB. Having reviewed those submissions, we have found some evidence of a possible breach of competition law. Having notified the CMA, and agreed jurisdiction, we have now opened an investigation into that possible breach using our competition powers.²

Our powers under the Competition Act 1998 will remain relevant as we continue to monitor this market. We will consider acting where we find evidence of infringement.³

Next steps

This is a consultation. We are asking for your views on the details of the remedies that we are proposing. You can find details of the questions we are asking and how to respond in chapter 3.

² The fact that we have launched an investigation does not imply that there has been a breach of competition law.

³ See our [enforcement guidelines](#)

1. Introduction

Chapter Summary

This document explains what we found through our review of the market for new connections to the electricity distribution network. And it explains what we are going to do to try to improve the way the market works.

This is a consultation. We are asking for your views on the details of the remedies that we are proposing.

Background - our review of the market

1.1. In June we opened our review⁴ of the market for new connections to the electricity distribution system. We made the decision to open our review in response to continued concerns about whether competition in this market is effective.

1.2. The first step of our review was a call for information – this closed on 31 July 2014. We received 80 responses. The purpose of the call for information was to give interested parties the chance to tell us about how well they think the market is working. To help with this, we provided two questionnaires for stakeholders to complete. One was aimed at connections customers and one was for alternative connections providers.

1.3. In October 2014, we published an update on our review.⁵ The update explained that – based on the responses received through the call for information – we had found issues in the market that could limit competition. We gave an overview of the responses received and asked stakeholders to validate our understanding of the issues we had identified. A number of the issues relate to the DNOs' role in the connections process. As such, our October update also asked DNOs to explain how they would be addressing the issues identified.

1.4. We received 11 responses to our October update. This included the six DNOs, two of their competitors (an ICP and an IDNO), two customers and the Metered Customer Connections Group (MCCG). Respondents either agreed with our issue descriptions, or did not comment on them specifically. There were a few minor clarifications, which you can see in appendix 2. The DNOs also identified how they planned to address the issues that we have identified. The responses we received are on the same webpage as the October update itself (see the footnote below).

⁴ See the [June open letter](#)

⁵ See the [October update](#)

1.5. Following the call for information, we also commissioned independent consumer research. 'Big Sofa'⁶ interviewed customers, to better understand their experiences of competition in this market. The first stage of the research was a mapping exercise with over 100 customers, designed to understand what the new connections market looks like. The second stage of the research was in-depth interviews with over 50 customers (each lasted 20-50 minutes), to fully understand their experiences of getting a connection and the factors that they consider are critical in choosing their connection provider. Customers were recruited from a variety of business types, sizes and locations.

1.6. The detailed findings of this research are available alongside this document⁷.

Purpose of this document

1.7. Since the October update, we have been considering how best to address the issues that limit effective competition. As part of our consideration we have assessed the responses we received to both the June call for information and our October update consultation. The purpose of this document is to –

- Explain the findings of our review and confirm the issues that we think limit competition in this market.
- Explain the changes to the market that are necessary to deal with the issues that have been identified.
- Explain the options that we have considered to deliver these changes and seek your views on the detail of our planned remedy.
- Set out what we are doing next and what will be required from the DNOs over the next six months.

1.8. Our October update provided a detailed overview of the market and explained the evolution of competition in the market. That detail is not repeated in this paper – if you require it, [this is a link to that document](#).

Our consultation

1.9. We are consulting on our proposed solutions to the issues identified and the best way to implement them.

1.10. Please provide any comments on the questions in chapter 3 by **18 March 2015**. Send your responses to connections@ofgem.gov.uk.

⁶ <http://www.bigsofa.co.uk/>

⁷ See the report [here](#)

2. Our findings

Chapter Summary

While competition continues to grow in parts of this market, there are parts of the market where competition has developed less well. We believe that the DNO's role in the connections process may be hampering the further development of competition.

Overview of our findings

2.1. Competition continues to grow in parts of this market, in part thanks to measures that we have put in place to encourage DNOs to remove barriers to competition. But there are sections of the market where competition has not developed so well.

2.2. Our review has found that there are a number of issues that have an impact on the development of competition. Together, these combine to frustrate competition and potentially make the process of getting a connection more costly for customers. There are two key groups of issues -

- **Those relating to the DNO's role in the connection process.** In each region, the DNO is the sole provider of a number of the key inputs needed to make a connection. It provides these both to its own connections business and also to its competitors. These interactions limit competitors' ability to control the delivery of their connections.

Over time, the DNOs have started to make changes to their processes and procedures to minimise their impact on the competitive process. However, no DNO has independently put in place enduring arrangements to deal with all issues that could arise to limit competition. Across GB, we have found inconsistencies between DNOs in how they manage the competitive connection process. This creates further complexity for competitors.

- **Those which do not relate to the DNO's role in the connection process.** We found a smaller number of issues which are not connected to the DNO's role in the connections process. These issues are varied and range from customer's engagement in the connections market to the statutory powers that some market participants benefit from.

2.3. This chapter explains the impact these issues might be having on customers and then explains each of these groups of issues in more detail.

Customer impact

2.4. Throughout our review of the electricity distribution connections market, we have sought to engage directly with connection customers. This customer input has been useful in developing our understanding of the connections market and identifying key barriers to effective competition.

2.5. Following our call for information, in which we asked connections customers to [complete a survey](#), we identified several themes that we wanted to understand further. To do this we commissioned 'Big Sofa' to undertake some additional market research.

Market research - Key findings

2.6. The research produced useful insight into the market. We have appended Big Sofa's report to this findings paper. Here are the key findings -

- There are a range of different customers that need to be connected to the electricity distribution network. Customer type, size, location and confidence in engaging with the connection market vary greatly. Some connections are made by consultancies, contractors and third parties on behalf of a client. Who the customer is, why they want to connect, and their previous experience of the market can greatly affect both their awareness of competitive alternatives and their choice of provider.
- The relevant DNO is the first point of contact for the majority of customers wanting to start the connection process. The information, advice and support that they provide is therefore very important. Less experienced customers find the application process too complicated, technical and time-consuming. These customers often need support to understand the connection process and the options available to them.
- Price, customer service and the timeliness of quotation and the completed connection are the most important priorities for customers when making a new connection. The relative importance of these factors is based on who the customer is, why they want to connect and their previous customer experience. For example, some connection consultants are less concerned about the price of a connection (as they pass this cost to the end customer) and more concerned about completing the connection in the agreed time.
- Some customers (smaller organisations with little experience of getting a connection) are not aware that they can use alternate providers for parts of their new connection. They may be aware that their quote is divided into contestable and non-contestable parts, but usually have little idea about what exactly that means and what they could do about it. They are not sure how they would find out more, and these types of customer usually assume that the DNO needs to provide the entirety of the connection – the prospect of involving other providers has not occurred to them.



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- The primary barriers to effective competition from a customer perspective are risk, hassle and, for some customers, a perceived lack of need -
 - **Risk:** Customers consider there to be a greater risk with using an ICP or an IDNO than using the local DNO, especially when they are familiar with the DNO. Customers also think it is riskier to use an independent competitor for projects with tight or stringent deadlines.
 - **Hassle:** Some customers consider that procuring an alternative connection provider is too much hassle, especially when customers do not understand the process or they are working to tight deadlines. Managing both an ICP/IDNO (providing contestable work) and a DNO (providing non-contestable work) is also perceived to require additional time and effort.
 - **Lack of need:** Customers are less likely to consider alternative connection providers if they are satisfied with the customer service and value for money provided by the DNO. Customers are also less likely to use an IDNO/ICP if the perceived cost savings are low (eg if the value of the connection is low or if the contestable works is only a small proportion of the total work).
- Most customers only manage new connections to the electricity network. Those customers that manage other utility connections (eg water, telecoms) report similar issues in other industries.

2.7. More information on the research methodology and our detailed findings are in the full report, published on our website.

2.8. These research findings have helped us understand how the barriers we have identified might impact on customers and their appetite towards using competitive alternatives.

Issues relating to the DNO's role in the connections process

2.9. Through the review we have identified a large number of issues which relate to the **behaviour of the DNOs**. Each regional DNO is the sole provider of a number of key inputs to the connections process - both to its own connections business and to its competitors.

2.10. The majority of the issues identified through our review relate to how the DNOs choose to run their connections process. In many cases the issues stem from processes that exist to help the DNO to safeguard network integrity and public safety. We recognise these are important considerations. However, the approach used to control the connection process together with the risk of poor behaviour by individual staff may make competition less effective. The interactions limit competitors' ability to control the delivery of their connections.

2.11. The difficulties in the connections process reported by ICPs/IDNOs can have a detrimental impact on customers. As described above, our customer research highlighted that some consumers are concerned that using an alternative connection provider is more risky or more hassle, than using a DNO. We consider that DNO behaviour can have an impact on these perceptions.

2.12. Here is a brief summary of the key issues identified in this area. For a fuller description, please see our October update.

- **Accreditation.** A DNO's approach to testing competitors' staff, before they can work on the network, can create a barrier to entry and expansion for competitors.
- **Determining point of connection.** DNOs determine the point of connection (PoC) to their network that competitors must assume when making connection offers to a customer. This adds time to the connection process, which may deter customers from using independent providers. There is also a risk that a different PoC is used by the DNO to that which has been provided to their competitors.
- **Convertible quotes.** In some DNO areas, problems can arise when customers accept a non-contestable quote from a DNO – but decline the contestable element (choosing to use an independent for the contestable work instead). If this happens, some DNOs may reissue the quote and change the costs for the non-contestable works.
- **Design approval.** Most DNOs insist on approving the network design that their competitors use as part of the connection offer to the customer. Getting the design approved can cause delays for competitors. There is a risk that a DNO's staff could use this approval process to delay their competitor, reducing their attractiveness to customers.
- **Link boxes.** DNOs may require an IDNO to pay for a link box to be installed between the DNO/IDNO networks. This creates a cost for independents of around £2,000 which would not be faced if the DNO did the work (if it builds the network, it does not need the link box). This may reduce the independents' ability to compete – especially for lower value works.
- **Inspection.** Most DNOs insist on auditing the completed connection assets that have been built by their competitors. There is a risk that this adds unduly to the timescales for independent connections, or even that DNOs staff could in some circumstances use this auditing process as an opportunity to delay the energisation of the assets. Such delay may dissuade a customer from using the independent provider again.

2.13. Over the last few years, DNOs have improved their processes. Electricity North West Limited and Western Power Distribution have received praise from

stakeholders for their efforts to improve. Other DNOs also appear to have made a number of new commitments during the course of this review.

2.14. We note that many of the issues flagged have been previously raised by competitors - before, during and after the Competition Test process which ran from 2010-2014. DNOs have had a number of years to identify and address these issues. We still have not yet seen a DNO come forward with measures that fully address all of these issues.

2.15. DNO efforts to address problems have also led to a range of different solutions which can add complexity to the process for both competitors and customers that operate across DNO regions. Many of these improvements have been made voluntarily and it is possible that standards will drop in the future.

Issues that do not relate to DNO's role

2.16. We have also found a number of issues that are limiting competition, which are not related to the behaviour of the DNO. These issues are varied and range from customers' engagement in the connections market to the statutory and regulatory framework. These factors combine to make it harder for competitors to compete with the DNOs.

- **Statutory rights.** As licensed companies, DNOs and IDNOs have statutory powers. These powers cover a range of different areas (eg wayleaves, easements and street works). Non-licensed companies (ICPs) face a more onerous process (in time and cost) to secure land rights and road closures which can affect their ability to compete.
- **Customers' awareness of alternative providers.** Some customers do not realise they have a choice of connection provider. Customer failure to engage with the market reduces the volume of work for independents. This deters entry and expansion.
- **Customers' understanding of how to use alternative providers.** Some customers are aware that competition exists, but do not understand the process for using an alternative connection provider. This can create a perception that using alternative connection providers is too much hassle.
- **Emergency response obligation.** In the event of a fault on the network, DNOs and IDNOs are required by their licence to provide certain services to customers on their network. IDNOs argue that the cost of providing these services disproportionately affects them due to the economies of scale possessed by the DNO (ie because the DNOs have a large number of customers relative to a new entrant IDNO, the average cost of emergency response provision is lower for them than for the new entrant).
- **Unmetered supply inventories.** Billing arrangements between a supplier and a large customer (eg a local authority) may become more complex and



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costly if the customer has unmetered assets (ie street lighting) on both a DNO and an IDNO network. As a result, some customers may be reluctant to adopt assets on an IDNO network.

- In our June call for information, we also identified that competition had not developed for some connection activities or in certain regions. We were interested to understand whether this could be a result of the nature of the activity or geography. We have not reached a final view on the issues. This is because we think that the issues above need resolving before we can do so.

3. Our proposals

Chapter Summary

Given the issues that we have identified, we want to mandate a higher common standard of performance. To ensure that there is an enduring focus by the DNOs on the adoption, harmonisation and maintenance of best practice behaviour across all of this market - we will require compliance with an enforceable Code of Practice (CoP).

Question box

Question 1: Please provide your comments on the proposed structure and content of the CoP licence condition.

Question 2: Please provide your comments on the minimum requirements we have proposed for inclusion in the CoP.

Question 3: In addition to the minimum requirements, what else should be included in the CoP?

Approach to responding to issues with the DNO's position in the connections process

3.1. At the start of this review we identified four possible outcomes:

- Do nothing
- Take enforcement action
- Consult on a Market Investigation Reference (MIR)
- Make changes to the regulatory framework.

3.2. The first section of this chapter discusses each of these options in turn, explaining our general considerations. We then discuss the details of our proposed remedy – which we are consulting on.

'Do nothing'

3.3. This option was included in the event that our review found that the market is working adequately, or that DNOs voluntarily took the necessary measures to deal with issues identified.

3.4. We have found that there isn't effective competition across all of the market and there are a range of issues that prevent it from developing. DNOs have had a long time to make improvements to their policies and procedures to deal with these issues. While some changes have been made – along with more recent commitments on further change – these do not go far enough. As such, we do not think fully effective competition will develop quickly throughout the market unless we take action.

Enforcement action

3.5. During the market review we received submissions relating to various specific examples of problems that competitors had encountered in working with DNOs around GB. Having reviewed those submissions, we have found some evidence of a possible breach of competition law.⁸ Having notified the CMA, and agreed jurisdiction, we have now opened an investigation into that possible breach using our competition powers.

3.6. Our powers under the Competition Act 1998 will remain relevant as we continue to monitor this market. We will consider acting where we find evidence of infringement.⁹

Consult on making a Market Investigation Reference

3.7. Because of the potential for the issues in the market to be driven by its structure,¹⁰ an MIR remains relevant. At this point though, we think there is sufficient evidence to show that there are **behavioural changes that can be made by the DNOs that could resolve the issues without the need for structural fundamental structural reform**. This is because –

- Stakeholders have said they find that the competition process in the market for new gas connections works better than in the market for new electricity connections. They attributed this to the reduced role of the GDN in the connection process. While there are some technical differences, there is commonality in the tasks involved in getting an electricity or gas connection. This shows that, by reducing the DNO's role in the connection process, competition should develop more fully in electricity distribution.
- In recent years DNOs have taken active steps to change their processes and behaviours to improve conditions for competition. As a result competition is increasing in parts of the market.

⁸ The fact that we have launched an investigation does not imply that there has been a breach of competition law.

⁹ See our [enforcement guidelines](#)

¹⁰ In the DNO's role in the connections process - providing critical services to both its own connections business and also to its competitors.

- Stakeholders have identified examples of changes made by DNOs to their processes that they consider to be good practice. This is further supported by the DNOs' responses to our October update consultation. All the DNOs provided details of the further commitments that they would make to deal with the issues that we identified (although we note that some responses went further than others and no one DNO has adequately dealt with all the issues identified).

3.8. So we do not think that an MIR is an appropriate step right now. However, if it becomes apparent that the DNOs will not quickly commit to the necessary changes in behaviour we will need to consider what action to take, including consulting on an MIR.

Regulatory remedies

3.9. As discussed above, we believe there are behavioural changes the DNOs can make that will help make competition more effective. Some of these changes are already being made. In the October update, we noted some good practice that stakeholders had identified through our call for information. As part of that consultation, we also asked DNOs to explain how they planned to resolve the issues identified. We note the commitments that have been made. However, they do not go far enough to address all of the issues.

3.10. As explained in the previous chapter, we are also concerned that DNOs have unique processes and different rules (eg accreditation). These create further barriers for independent providers, who have to navigate a range of difference requirements across the 14 DNO regions.

3.11. Given these concerns, we will act to ensure that DNOs focus on adopting, harmonising and maintaining best practice behaviour across all of this market. We intend to do this by requiring DNOs to reduce the extent to which competitors depend on them for essential services. Where the DNO is required to provide these services, it will need to do so on an equal basis to its competitors and its own downstream connections business and DNOs collectively will need to harmonise their arrangements for competition. This will be achieved through an enforceable Code of Practice (CoP) with which DNOs will have to comply.

3.12. If this remedy is not promptly developed and implemented we will carefully consider our next steps, including whether it would be appropriate to consult on making a Market Investigation Reference to the Competition and Markets Authority (CMA).

3.13. We now discuss this remedy in more detail.

Our remedy

Introduction

3.14. We intend to introduce a new condition into the electricity distribution licence which will require DNOs to comply with a CoP. The licence condition and the CoP will be developed as follows -

- We will develop and consult on the overall obligations. We start that process through this consultation. Our initial thoughts on the structure and content of the high level licence condition and the minimum requirements for the CoP are described below. Through this consultation, we are also consulting on the minimum requirements for the CoP. After considering your responses, we expect to make a decision in April 2015 on what the minimum requirements will be.
- DNOs will be responsible for developing the CoP through consultation. This finished CoP should be submitted to us by no later than 1 June 2015. The CoP should meet the minimum requirements, which we define, and should continue to do so over time.

3.15. If we determine that the DNOs' CoP satisfies the minimum requirements, we will launch a statutory consultation before deciding whether to introduce the licence condition and make the CoP take effect. To help demonstrate that the minimum requirements have been met, we will require the DNOs to demonstrate that they have adequately consulted with ICPs and IDNOs. The DNOs will need to show how the independents' opinions have been reasonably reflected in the CoP that is proposed.

3.16. The timings explained above would mean the licence condition and CoP would have legal effect from September 2015. Given the extensive opportunity the DNOs have had to deal with the issues that the CoP will address, we expect the DNOs to adopt all aspects of the CoP at the earliest opportunity. Compliance with the requirements of the CoP will be required immediately from the date the licence condition takes effect.

3.17. If during the consultation process it becomes clear that DNOs are not willing to ensure the timely development of an adequate CoP we will need to again consider whether the behavioural issues identified can be resolved without structural change.

Based on this principle, we ask DNOs to give us an initial response to this consultation, by no later than 18 February 2015, explaining how they intend to work together to ensure the timely development of the CoP.

(Final responses from all stakeholders should be provided by 18 March 2015).

3.18. The remainder of this chapter describes the proposed contents and structure of the licence condition and then sets out our proposed minimum requirements for the CoP.

The CoP licence condition

3.19. There will be a framework licence condition and underlying CoP. We do not expect the licence condition itself to include the detailed requirements or specific obligations – these will be included in the CoP, but will be enforceable by way of the licence condition.

3.20. The rest of this section describes our current view on the structure and content of the licence condition. We are seeking your views on the detail of our proposal. We want to know if you think the areas we have proposed for including in the licence condition are appropriate or whether there are other requirements or safeguards which should be included.

Part 1 - General duty

3.21. We propose that the licence condition will introduce a duty on each DNO to use its best endeavours to comply with the purpose of the condition (see below) and also the specific obligations of the CoP.

3.22. Compliance with this duty will in no way absolve the licensee from its duties under competition law or other legal obligations with which the DNO must comply.

Part 2 - Purpose

3.23. Our proposed purpose is set out below. The text which we may introduce into the licence is in **bold**, with a description given below it.

The purpose of this condition is to ensure that competition in the market for new electricity distribution connections is maximised through -

- **The licensee minimising – to the fullest extent reasonably practicable – the scope and cost of its input services.**

We think that wherever possible the DNOs should minimise their involvement in competitors' connections activities. Where the DNOs insulate themselves from the activities of their competitors, they vastly reduce their opportunity to influence, or be perceived to influence, the competitive connections process.

- **The provision of input services – where they are necessary – by the licensee on an equivalent basis to its competitors and its own connections business.**



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There may be points of the connections process that the DNOs cannot remove themselves from. Where this is the case, they must ensure that they provide the same service to independents that they provide to their own connections business – so that competition in the downstream market is not affected.

- **Harmonisation of its Input Services with those of all other GB DNOs.**

As described in our findings, we have found that differences across the DNO regions can act as a barrier to entry and expansion for competitors. They also add complexity for market participants. Where DNOs harmonise their approach, these barriers can be reduced or removed and the market simplified.

Part 3 - Compliance and reporting

3.24. We propose that the licence condition will introduce a reporting requirement on DNOs. This could include DNOs certifying that they are complying with the obligations of the licence and meeting the CoP.

Part 4 - Governance and appeal process

3.25. The CoP will need to be a 'living document' which can be adapted to reflect changes in the market and best practice – this is one of the reasons why we are proposing a code rather than detailed licence requirements. As such, we are proposing that the licence condition should include governance arrangements which will allow for the CoP to be amended from time to time.

3.26. Our proposed objectives for the governance arrangements are that -

- A wide range of parties – not just the DNOs – can propose changes.
- The arrangements ensure there is not a large volume of speculative changes proposed. To achieve this we could include, as a requirement of proposing a change, that the proposer has to demonstrate that there has been a material change in circumstance in the market or there is evidence to show the change would improve competitive outcomes.
- Clear criteria against which we will consider changes. We propose that any changes will need to be shown to facilitate the purpose of the CoP.
- A range of parties is consulted on changes before we determine whether the change should be made.

Part 5 - Definitions

3.27. The purpose of the condition is to resolve issues that arise in the competitive market as a result of the DNO's position in providing essential inputs to the market, while also competing in the market. The licence condition will need to define these essential inputs (currently expressed above as Input Services). The condition may also need to define other important terms to ensure clarity of interpretation.

Licence drafting

3.28. We will prepare the licence condition and undertake an informal written consultation on it in the Spring of 2015. This will be followed by a statutory consultation. Before the informal consultation we will hold a meeting to discuss the detail of the licence condition. DNOs wishing to attend the meeting should contact the connections@ofgem.gov.uk mailbox.

The Code of Practice

3.29. The goal of the Code of Practice is to resolve the issues we have identified that result from the DNO's role in the connections market. It also seeks to bring all DNOs to the same high standard of performance in all aspects of their involvement in the competitive connections business¹¹ and ensure the harmonisation of processes across DNOs to help foster competition.

3.30. The CoP will be developed by the DNOs, but will have to meet a set of minimum requirements that we will determine through this consultation. These are discussed below.

Minimum requirements

3.31. In this section we explain the minimum requirements we think the CoP should meet. We are asking for your views on these. We also believe that the Code of Practice should enshrine the good practice evident in many of the DNOs in a range of areas. This will have the effect of bringing all of the DNOs to the same high standard in all areas of the connection process. We welcome your comments on such areas for inclusion.

¹¹ For the avoidance of doubt, this includes the actions of individual members of staff.

Accreditation

- DNOs must allow for a common or fully transferable accreditation and authorisation for work on their networks. Once an individual has been certified as competent on one DNO's network, they should not have to face any unnecessary requirement to be accredited again elsewhere.
- The charges to get accredited must be cost-reflective and opportunities to be accredited must be available on a sufficiently frequent basis.
- These accreditations could be administered by the DNO, or an independent third party could provide all accreditation for the industry.

Point of connection

- DNOs must have a common self-determination regime which allows competitors to identify their own point of connection to the network (where they want and are able to). This will allow competitors to determine their own point of connection for the majority of straightforward connections.
- To enable this self-determination, DNOs must provide competitors with equitable access to network information to allow them to determine the point of connection accurately.
- There will be some cases, defined in the CoP, where self-determination will not be possible. These must be kept to a minimum and there must be clear explanation given for why this is the case.

Design approval

- DNOs have common mechanisms to allow independents' staff to become an approved designer.
- Designs produced by an approved designer do not require approval by the DNO's staff.

Link boxes

- The party which requires a link box on the boundary between two networks, based on its obligations and its assessment of risk, must fund it.

Inspection

- DNOs have in place an inspection and audit regime which is consistent for all connections they will adopt (both for where they have been responsible for the work or where an independent has undertaken the work).
- The criteria used to dictate the frequency of inspection and reporting on the volume of inspections conducted (across both their business and their competitors) must be publicised.
- This inspection regime could be administered by the DNO or an independent third party.

Accepting non-contestable quotes

- DNOs must provide fully 'convertible quotes' for all contestable connection offers.
- This means that when the customer accepts the non-contestable services offered by the DNO but chooses to use an independent for the contestable part of the connections, the DNO cannot reissue the quote for the contestable services.

Other Issues

3.32. As well as issues relating to the DNO's role in the connections process, we identified a number of other issues. We explain our response to these here.

Statutory rights

3.33. We understand how statutory rights may limit competition. However, we do not have the powers to amend primary legislation in order to deal with the issue. We will raise this issue with central government to explain the problems we have identified. We will also contact the other sectoral regulators to understand whether the same legislative issues impact on other types of connections markets. Again, where the issues are common we will also bring this to government's attention.

Customers' awareness of alternative providers and their understanding of how to use alternative providers

3.34. We consider that all of the DNOs have made efforts to ensure that customers are aware that they have a choice in connection provider. We will let the Competitive Networks Association (CNA) know that we think it and its members should do more to tell customers about the benefits they can provide. This should not just be the DNOs' responsibility.

3.35. However, our market research also identified that while DNOs highlight to customers that they have a choice, customers do not necessarily have a good

understanding of how they can use that opportunity. So we require that the enforceable CoP should also include best practice requirements relating to how the DNOs explain the choice that customers have.

Emergency response obligation

3.36. We are encouraged that most of the DNOs have indicated that they are willing to negotiate on providing this service to IDNOs. If the DNOs see any regulatory barriers to providing this service, they should tell us.

Unmetered supply inventories

3.37. Billing arrangements between a supplier and a large customer (eg a local authority) may become more complex and costly if the customer has unmetered assets (ie street lighting) on both a DNO and an IDNO network. We understand that this issue results from the arrangements of the Balancing and Settlement Code. This code is administered through open governance process, which allows parties to propose changes to the code for consideration by the industry and if appropriate, approval by us. We encourage parties to propose modifications that will address this issue.

4. Next steps

4.1. We explained the majority of the next steps for this work in the previous chapter. The table below summarises the indicative milestones for implementing the enforceable Code of Practice.

Milestone	Date
DNOs initial response to this consultation, explaining how they will work together to ensure the timely development of CoP	18/02/2015
Remedy consultation closes	18/03/2015
Ofgem decision on code minimum requirements	29/04/2015
Deadline for DNOs to submit CoP to Ofgem	01/06/2015
Decision on acceptability of CoP and possible statutory consultation on licence condition	30/06/2015
Licence condition in place – enforceable CoP live	End September 2015

Appendices

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Appendix 1 - Consultation Response and Questions

1.1. We would like to hear the views of interested parties on any of the issues in this document. In particular, we would like to hear from DNOs, IDNOs, ICPs and their customers.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of chapter 3 and replicated below.

1.3. Please send us your responses by 18 March 2015, preferably by email, to:

Sam Cope
Distribution Policy
Ofgem
9 Millbank
LONDON, SW1P 3GE
connections@ofgem.gov.uk

1.4. Unless marked confidential, all responses will be put in Ofgem's library and published on our website, www.ofgem.gov.uk. You can ask for us to keep your response confidential, and we will respect this, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. If you want us to keep your response confidential, please clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Please put any confidential material in the appendices to your responses.

1.6. Please send any questions on this document to:

Sam Cope
020 7901 7239
connections@ofgem.gov.uk

CHAPTER: Three

Question 1: Please provide your comments on the proposed structure and content of the CoP licence condition.

Question 2: Please provide your comments on the minimum requirements we have proposed for inclusion in the CoP.

Question 3: In addition to the minimum requirements, what else should be included in the Code of Practice?

Appendix 2 – Summary of responses to the October Update

- 1.1. We received 11 responses to our consultation, including six from DNOs. Two were from competitors (an ICP and an IDNO), two from customers and one from MCCG. For the avoidance of doubt, where 'non-DNO respondents' are referred to, this includes the IDNO, ICP, MCCG and customers.

QUESTION 1: Please let us know if any of our issue descriptions do not adequately reflect your experience of the market

- 1.2. Non-DNO respondents generally agreed with the issues we raised. Some customers commented that they had not had direct experience of certain issues raised or that certain issues were not relevant to the types of connections they were involved in. Generally DNOs either acknowledged the issues or did not comment specifically.
- 1.3. The detail of the responses is summarised below. We have commented where appropriate, otherwise we think that the responses should be considered by DNOs and competitors are part of the development of the CoP.
- 1.4. There are a few notable exceptions to this:

Issue A – The DNO's level of control over the connections process

- 1.5. One DNO noted that DNO accreditation requirements only differed from NERS where the ICP's work involved the live distribution system, and that this work represented a very small proportion of overall metered ICP works.
- 1.6. One customer said they had seen no evidence of DNOs using inconsistent processes for identifying PoCs or inconsistent application of planning and design standards. They did comment that the reasoning given for the choice of a PoC was not always clearly communicated.
- 1.7. One DNO did not consider that delays caused by securing access rights for PoCs on third party land were a barrier to competition, as it would face the same delays if undertaking the connection itself. It did recognise that the ICP could perceive these delays as being caused by the DNO though.
- 1.8. One DNO did not believe that a requirement for link boxes would distort competition between a DNO and an ICP in the provision of contestable services as it would not be affected by the choice of who provided the connection.

Issue B – The customer's experience

- 1.9. Several DNOs commented that their data suggested that customers are aware that they can use an alternative provider.



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1.10. One customer who responded stated that they were aware that alternative providers were available.

Issue C – The impact of regulatory regimes and requirements

1.11. One DNO did not agree that DNOs are able to cover the cost of providing an emergency response service more easily than other competitors, but acknowledged that IDNOs had raised it as an issue.

1.12. Another DNO believes that this issue does not have the scope to affect competition and customer choice between DNOs and an ICP in the provision of a new connection.

Issue D – Transparency of pricing

1.13. Respondents agreed that this could affect competition.

Issue E – Competition not viable for certain types of connection

1.14. One DNO considered that competition is viable in all segments, even the two smaller market segments that it did not pass the competition test.

1.15. Another DNO highlighted other factors that have contributed to competition not developing in all market segments -

- Geographic considerations of independents as to whether or not to expand in certain areas of the UK,
- Economic conditions affecting investment in growth associated with market segments,
- Technical skills capabilities of independents, and
- The ability of independents to 'cherry pick' the projects and locations they would operate in.

1.16. In response to this comment we note that, in our June call for information, we also identified that competition had not developed for some connection activities or in certain regions. We were interested to understand whether this could be a result of the nature of the activity or geography. We have not reached a final view on the issues. This is because we think that the broader issues identified in the main section of this paper need resolving before we can reach a conclusion on these other issues.

1.17. A third DNO commented that even if there is no competition for the connection job, there is competition in tendering which minimises the costs for sub-components of the work.

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QUESTION 2: Please provide comments on the solutions that stakeholders have suggested to deal with the issues that have been identified. Let us know if you have other ideas

Issue A – The DNO’s level of control over the connections process

The nature of DNO accreditation regimes

- 1.18. Non-DNO respondents supported proposals to enable free movement of accredited companies and persons across DNO areas. An IDNO suggested that this could be achieved through a strengthening of NERS. MCCG suggested that an independent body should audit both DNOs and competitors.
- 1.19. One DNO noted that smaller ICPs operating in its area did not support transferable accreditations, as they saw the need to develop their own systems and authorisations as introducing a barrier to competition. This DNO commented that such an approach would be more beneficial for larger organisations. We think that when the DNOs develop these arrangements it will be essential for them to consider the impact on all market participants.

How DNOs determine the Point of Connection (PoC)

- 1.20. None of the respondents supported an impartial third party determining PoCs. Several suggested that this would add unnecessary extra costs and complexity which may outweigh any benefits. MCCG commented on the lack of clarity over how this arrangement would be funded.
- 1.21. There was general agreement that a self-determination model would be more desirable. One customer added that a DNO version of the Transmission Entry Capacity (TEC) register would help.

The way in which DNOs approve connection designs

- 1.22. A few concerns were raised around the proposal for designs being approved post-connection. One DNO noted that this could cause additional cost and complication if designs were not appropriate. An ICP was concerned that the competitor would be carrying the liability that construction might need to be altered at a later stage.
- 1.23. An IDNO suggested that the design approval process should be managed through NERS with DNOs producing a matrix of standard designs for different connection configurations.

The requirement for IDNOs to fund and install link boxes

- 1.24. There was broad support for the proposal to remove the requirement for link boxes where not required. One DNO is consulting the Health & Safety Executive to confirm if link boxes are a requirement or not. Another DNO commented that a change to the distribution code would be needed to remove the link box requirement.

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- 1.25. One customer agreed that DNOs should fund or part fund link boxes where they are needed, though MCCG indicated that its IDNO members acknowledged that they should fund link boxes where required.

How DNOs inspect and monitor new assets provided by their competitors

- 1.26. Non-DNO respondents supported the proposal for an independent auditing regime for DNOs, and one DNO also commented that this was a sensible solution.

Inconsistent application of planning and design standards

- 1.27. No proposed solutions for this issue were outlined in our consultation. MCCG and an ICP suggested that competitors should be allowed to take full design responsibility for their works. An ICP suggested that DNOs should publish design policy and standards to be applied consistently across their area.

Issue B – The customer’s experience

Customers do not know they can use alternatives

- 1.28. A range of solutions were proposed to increase customer awareness. One DNO suggested that independents could set up their own websites which could be promoted on DNO sites. Another suggested that Ofgem could lead a promotional effort, funding an independent third party via the licence fee. A third commented that introducing convertible quotes would help.
- 1.29. Two competitors commented that DNOs should ensure any information they provided was carefully worded to make the alternative seem no less attractive. An ICP made a number of suggestions including DNOs advising enquirers by return on how they could obtain competitors’ quotations, Ofgem making details of accredited ICPs available on its website and in guidance documents, and DNOs adding strap lines on emails/letters and telephone messages when customers are on hold to confirm there are alternatives.

Customers are reluctant to use alternatives

- 1.30. One DNO agreed with the proposed solution to create an independent third party to provide information, though an ICP and a customer both disagreed that this would bring any benefits. Several competitors suggested that if they had complete control over the connection delivery customers would be more confident in using alternatives. One customer noted that publishing NERS accredited companies’ performance and number of different types of connections may help demonstrate competence to customers.

Customers that want to use a competitor find difficulty in accepting just the non-contestable part of the DNO’s quote

- 1.31. There was general agreement with the use of fully transferable quotes, though two respondents noted the importance of these quotes being able to be used regardless of whether a DNO or IDNO would be adopting the network. One

customer believed that IDNOs should be allowed to bid for non-contestable work through an auction.

- 1.32. Another customer noted that DNO connection teams have been dealing with large volumes of speculative generation connection requests recently, and suggested that if there was a nominal design fee then there may be fewer speculative requests, allowing for more quality communication between DNOs and customers.

Issue C – The impact of regulatory regimes and requirements

The licensees' statutory powers

- 1.33. Respondents generally supported the extension of statutory powers to non-licensees, though one DNO commented that it may not be practicable for a number of reasons. MCCG and an ICP welcomed extending the guaranteed standards scheme to cover the land rights process. However two DNOs did not consider that a guaranteed standard would be appropriate for this.

The DNOs and IDNOs' licence requirement to provide an emergency response service

- 1.34. An ICP and an IDNO agreed with the proposal that DNOs should provide emergency response services for their areas in a similar manner to the gas industry. A customer commented that the asset owner should have the responsibility for this, even if they then contract it out.

The ability of DNOs to provide part-funded connections

- 1.35. Several respondents (DNOs and competitors) referred to pilot schemes they had participated in or were planning to run. An IDNO commented that it had been working with a DNO and thinks there is a solution that can allow this area to operate efficiently.
- 1.36. MCCG and an ICP detailed a simple approach they believe will address the issue whereby if the ICP's charge for carrying out an entire scheme is lower than the DNO's charge for the same work, including only direct and indirect costs, then the IDNO should be allowed to complete the work.

Issue D – Transparency of pricing

- 1.37. There was support for making prices more transparent, with respondents favouring a range of the proposed solutions. Non-DNO respondents emphasised the importance of quotations being clear and easy to understand.
- 1.38. Two DNOs noted that a common format may limit innovation and reduce the speed of development and change. One of these suggested that there could be no common format but Ofgem continues its role in highlighting best practice.

Issue E – Competition not viable for certain types of connection

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1.39. One customer supported the proposed solution. An ICP and an IDNO both commented that introducing a self-serve process would allow competition to exist in all segments.

DNO commitments to address the issues identified

1.40. The DNO commitments to address the issues we identified can be found in their responses to October update our website.¹² We do not consider that any one DNO has identified comprehensive solutions to each issue. DNOs have also identified different solutions to the same issues.

Other issues raised

1.41. One DNO commented that there are other aspects of the common distribution arrangements which affect network ownership choices on certain connections. It did not give specific details but suggested we should undertake a wider review of connection and network charging arrangements to consider other aspects of the arrangements which may be relevant to customer choices between DNOs and IDNOs.

1.42. An IDNO raised the issue of unmetered supplies. This impacts on competition in connections as separate UMS inventories are created for the loads on IDNO networks which must be traded separately from those on DNO networks. This can result in higher supply charges for the customer. This has led some local authorities to threaten to not adopt street furniture connected to IDNO networks.

1.43. An ICP discussed progress on several other issues impacting on competition in connections such as -

- Customer engagement
- Slick application processes similar to the DNO's service to its own connections business
- Behaviour of upstream operator doesn't cause loss of work
- Letters of Authority to make connection requests

1.44. MCCG raised a concern that various parties such as connection customers and generators are specifically excluded from voting on change proposals relating to DCUSA.

Comments on our process

1.45. One DNO commented that some analysis of the number of customers impacted by each issue would be useful to gain perspective of how significant each issue is.

¹² [DNO responses to the October update.](#)

1.46. Another emphasised the importance of ensuring we have fully assessed other factors impacting the attractiveness of certain competitive connection works to competitive parties. These are listed in the comments under question 1 (issue E) above. This DNO also considered that we have not recognised the importance of the following additional factors -

- Volume of customer connections contracted to be provided
- Unrecorded connections within the Unmetered Connections (other work) RMSs.

1.47. A different DNO also mentioned that we should consider the points raised by respondents in the context of the volume of SLC15 work delivered by the companies. It also raised concerns that the number of end customers that have engaged in our review represents a very small proportion of the customer base.

1.48. In response to these points we note -

- In our June call for information, we also identified that competition had not developed for some connection activities or in certain regions. We were interested to understand whether this could be a result of the nature of the activity or geography. We have not reached a final view on the issues. This is because we think that the broader issues identified in the main section of this paper need resolving before we can reach a conclusion on these other issues.
- The overarching nature of the issue also makes it difficult to quantify the effect of each individual issue for different customer groups.
- We have commissioned additional independent consumer research which involved direct interviews with connections customers to ensure that we understand their views on the process, in addition to those of competitors. This research and its findings is described in detail in section 2 of this document.

Appendix 3 - Feedback Questionnaire

1.1. We believe that consultation is at the heart of good policy development. We are keen to hear from you about how we have conducted this consultation. We are also keen to get your answers to the following questions:

1. Do you have any comments about the overall process adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand? Or could it have been better written?
4. Were the report's conclusions balanced?
5. Did the report make reasoned recommendations for improvement?
6. Please add any further comments.

1.2. Please send your comments to:

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