TRANSMISSION CAPITAL PARTNERS

Gordon Hutcheson
Transmission Competition Policy
9 Millbank
London
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29th September 2016

Dear Gordon,

Extending competition in electricity transmission: arrangements to introduce onshore tenders

Transmission Capital Partners manages one of the largest offshore electricity transmission portfolios in terms of the capacity of offshore wind connected. Our managed portfolio of Offshore Transmission Owner (OFTO) assets includes the connections to the Robin Rigg, Gunfleet Sands, Barrow, Ormonde, Lincs and Westermost Rough offshore wind farms - a portfolio of over 1000MW (circa £800m in capital employed).

We remain strong advocates of introducing competition into the delivery of onshore transmission and we continue to support the development of the required arrangements *inter alia* through industry groups, responding to consultations such as these and, when called upon, providing evidence to parliament.

We note that the proposals mainly relate to the late CATO-build model for the RIIO-T1 period.

In general we are very supportive of the proposals and a theme throughout our response is to ensure that the regime enables the lowest costs of debt and equity can be deployed in the CATO sector to the benefit of GB consumers. There are a couple of areas in particular which we believe require further attention:

i) Risk allocation – further detail is required in this area to get a clear and fair allocation of risk between CATO bidders and other stakeholders.
ii) Variant bids – it is important that these can be assessed in a predictable and transparent way without making the tender process more complex for bidders.

We have responded to the specific questions raised in the consultation in the attached Annex (1).

Yours sincerely,

Chris Veal

Encl.: Annex 1

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Annex 1 – Responses to specific questions

QUESTION	TCP RESPONSE
CHAPTER: One	
Question 1: How well aligned do you think the proposals in this document are with our objectives for onshore competition?	We think the proposed policy proposals align very well with the policy objectives (set out in para 1.1 of the consultation document). Whilst we have tried to set out below where we are supportive of specific proposals, we may not have done that in every instance and so we would like to stress that we agree with the broad thrust of the proposals, and the vast majority of the specifics within the proposals. We have naturally focussed more in what we say below on those few areas where our views differ from those set out in the proposals.
Question 2: What do you think are the implications of our overall proposed policy around the tender process, CATO incentives and obligations on CATO cost of capital and levels of competition for a CATO licence?	We believe the implications of the overall proposed policy are positive and will attract a strong level of interest from equity and debt investors, ultimately to the benefit of the consumer. We set out in our response those areas which we believe could be refined in order to enhance the deliverability or financeability of a CATO project. As set out below we think that the incentive package should be limited to 10% of annual revenue in order to ensure CATO projects are attractive to both debt and equity investors, resulting in the lowest possible cost of capital. Our other concerns mainly centre on the risk allocation and making sure that the CATO only assumes risks that it is 'economic and efficient' for it to assume. For instance we believe the added security requirements benefitting the SO are unlikely to be value for money and may discourage construction contractors and funders supporting the projects.
CHAPTER: Two	

Question 1: What do you think about our proposed approach to tender evaluation? Are any elements missing that we ought to look at?	In general we agree with the proposed approach which very much builds on the OFTO tendering model: • We would consider that the experience of managing health & safety on high voltage electrical assets is an important evaluation criteria, in particular how a bidder would manage setting contractors to work on high voltage electrical equipment in both the construction and operational stages (including bringing equipment under safety rules at the appropriate time and having appropriately authorised supervisory staff) [we note this may be captured by item 4 in the table on page 24 of the consultation document but HV electrical safety is not explicitly mentioned]. • Although we understand that the costs of expected transmission losses will be part of the ITT stage evaluation, rather than incentivised during the operational stage, we didn’t feel that this was clear from the consultation document. • We agree it critical, just as it is in the OFTO process, that tender assumptions are robust and deliverable to avoid CATO financial distress and any recourse back to Ofgem/the consumer. • We would encourage, where possible, only providing access to the ITT data room once it has been adequately populated – early access and parallel processes can lead to a protracted bidding phase which is ultimately costly for bidder, inefficient and may impact on value for the consumer. • We would discourage overlap between the content of the EPQ, OP and ITT stages which can lead to performing the same work three times and corresponding inefficiencies in costs. • The tender process could consider allowing for a dialogue phase to enable bidders to understand the detail of the preliminary works.
Question 2: What are the main detailed aspects/criteria of our	Further clarity on the following would be welcome on:

evaluation that you would like further clarity on as a priority over the next few months in order to inform your decision on whether or how to bid?	• The scoring and thresholds for the EPQ stage • The weightings of each of the tender response sections at the OP and ITT stages.
Question 3: What do you think about our proposals for variant bids? Which areas are likely to lead to the largest benefits for consumers?	• As stated in Question 1 above, whilst we understand that the costs of expected transmission losses will be part of the tender criteria (as this would be typical for a transmission project and the costs should be quantifiable based on equipment designs, forecast system flows and costs of losses), it wasn't clear from the consultation document that this was being proposed. • Whilst we are always keen that innovation that can yield real consumer benefit should be encouraged, it will be important that this is done in a way that is transparent. We believe that assessing issues like visual amenity which is hard to quantify would make the tender process more complex and less transparent for bidders and therefore may not result in a better outcome overall (we are also not sure why consumers would be willing to pay for enhanced visual amenity over and above what is required in order to obtain consent for project). • In general therefore we believe that innovation should be evidenced through lower construction or O&M costs, faster construction (which will reduce financing costs) or better operational performance and which should already be accounted for in the tendering process. • All bidders should be required to submit compliant bids as a baseline in order to make comparisons possible
Question 4: How could Ofgem best value the relative merits in variant bids of enhanced consumer outcomes, potential savings and	See our response to question 3 above – we do not think that this is easily achievable in a transparent competition. It is important that the impact of any variant bid be measurable and certain.

likelihood of delivery where these do not align?	
Question 5: Do you consider that our proposed tender process stages and timings provide sufficient time for interaction with the supply chain and bidders to undertake required design work in order to put forward robust, fixed price bids at the ITT stage?	In general we agree with the stages and timelines proposed. We would note though that we consider that if the circumstances required that the ITT stage should commence prior to consents having been obtained in order to ensure that a project is completed on time, then consent conditions could be dealt with either by an update during the ITT process or by reopeners at the PB stage.
Question 6: Which contracts from preliminary works would you expect to be novated to the CATO on appointment?	• Land rights, Crossing and Proximity Agreements, Consents, Contracts under which engineering surveys/site investigations have been carried out; • There may also be some environmental monitoring contracts which could run on into construction which may be preferable to transfer at the discretion of the CATO; • We do not expect any equipment supply, installation contracts, civil works contracts or construction contracts to be transferred.
Question 7: What are your views on the potential value, and practical implications, of a share sale model for tendered RIIO-T2 projects?	In general we would consider that either model could work (we have extensive experience of the asset sale model under the OFTO regime). • The share sale has the potential to simplify the transfer process; • In the event of a share sale the company would remain subject to all liabilities. The purchaser will expect the seller to give extensive warranties and indemnities as protection against unknown liabilities. The CATO would need to be indemnified by the TO (or protected similarly through its licence) • We would consider that the project company set up by the transmission licensee should not have any staff in it and therefore no issues should arise in respect of staff working for it (TUPE issues should be relatively straight forward);

	• Under the share sale model the contractual relationships the company has should not change as it is only the ultimate ownership of the company that is changing. However, this will have little effect if the contracts contain a change of ownership clause which could trigger termination. • Stamp duty is paid at 0.5% on the value paid for the shares versus up to 4% for an asset purchase. The sale model could therefore reduce the SDLT paid on acquisition depending on the composition of assets acquired. • A corporate seller may have to pay CGT on disposal of shares under the share model.
Question 8: Based on your understanding of the HVDC supply market, what are the priority areas we should be looking to consider over the next few months in order to ensure HVDC projects can be tendered efficiently under late CATO build?	The priorities should be that TOs ensure that the designs of all credible HVDC manufacturers are allowed for in the consenting envelope for late CATO build projects.
CHAPTER: Three	
Question 1: What do you think about our proposed package of CATO incentives? Do you think we are missing anything?	We agree that the proposed package of measures is comprehensive and can be used to incentivise the correct performance and behaviour by CATOs. We agree with the payment on completion as being the right delivery incentive for most projects. We agree that for large projects or those with long construction periods it may be more efficient to allow some revenue to commence during construction (against milestones achieved), but this should be decided on a case-by-case basis. There is of course much detail to be added to the package, including the size of the incentives to be applied. Capping incentives at 10% per annum of revenue has worked well for OFTOs

	and should also lead to efficient capital structures together with appropriately incentivised behaviour for CATOs. We agree that incentivising a CATO to optimise transmission losses (against capital expenditure) is best done at the tender stage, although it will be important to ensure that promised levels of losses will actually be realised. We agree that a transmission loss incentive during the operational phase should not be required.
Question 2. What do you think about our proposals for the CATO availability incentive?	The proposals for the availability incentive appear to build very much on the availability incentive used for OFTOs, which has been shown to be very successful in driving good availability performance from those assets. There are a few differences which in general we support: i) Performance below target penalised at a higher rate than above target performance is rewarded – we understand the rationale for this and why it may be considered to be different to an OFTO; ii) With a different incentive rate above and below the target availability level it becomes more important to select a target rate as close as possible to the desired availability level. This may require quite different target rates to be used for different CATOs as they may provide very different roles to the system as a whole. iii) In contrast to OFTOs which are currently all point-to-point networks, a CATO may have a more complicated topography. The more complicated topography may, as the proposals suggest, ideally require a more complicated availability incentive. However, unless it is very clear (and specified as part of the ITT specification) as to exactly what network elements (and capacity of each) are required it would not be appropriate to have individual asset or circuit incentives. It would be better to specify more detailed functional or output performance objectives and to incentivise these. For example a CATO system that connects three nodes (A, B and C) may better be incentivised by using the ability to transfer power from A to B rather than the circuit rating of A->B if power can also flow from A->C->B.

	iv) We agree with the approach of bolt-ons as different CATOs may provide very different roles to the system as a whole. For example whilst seasonal weightings are not proposed to form part of the general availability incentive, it may well be appropriate to use these if a CATO were of the type 3 (Radial Connection) and were connecting a part of the system which had significant generation with seasonal characteristics. v) We support the connections incentive as being proportionate, if contained within an overall aggregate annual incentive cap of 10% of revenue.
Question 3: What do you think about our proposals for CATOs to participate in a Network Access Policy (NAP)? How do you think the NAP could best be managed to accommodate CATOs?	We understand the need for the policies and procedures set out the Network Access Policy documents issued by National Grid and SPT/SHET. These documents largely set out bilateral or trilateral arrangements, i.e. how National Grid's TO and SO arms interact, and how SPT and SHET interact with each other and the SO. It would certainly be possible for CATOs to have their own Network Access Policies (derived perhaps in conjunction with neighbouring TOs and the SO) and if there were only one or two CATOs this could be the most efficient way forward. However, if it were envisaged that eventually there should be several CATOs, it may be more efficient to standardise network access policy by enshrining it in the STC or one of the STC procedures. This would then ensure that all TOs adopted the same standards, procedures and policies in dealing with network access issues.
Question 4. What do you think about our proposed incentives for CATO asset management? Do you have any views on how we could best appraise asset health?	This is a challenging area and we understand the necessity to maintain assets in good condition throughout the initial 25-year revenue term due their on-going need post year 25, and that this need could be perceived to be stronger than for OFTO assets. However, we do not consider that a 5 yearly assessment as to their condition by an independent consultant would be sufficiently objective. It would therefore cause uncertainty to bidders and may drive higher pricing for consumers. We believe that the existing regulatory reporting requirements, inevitable covenants and controls imposed by debt financiers and revenue incentives are sufficient to ensure asset health during the 25-year revenue term. We believe that continuing such regulatory

	reporting and incentive arrangements after the initial 25-year regulatory term would similarly ensure good asset condition. In our opinion abiding by good industry practice during and after the 25-year revenue period will impose strict requirements on CATOs and provide the same level of assurance that the asset is to be maintained in good condition. It may be that the 10% annual incentive cap is required to be revised post the initial 25-year revenue term to more closely align with the capital structure of the CATO at that time.
Question 5: What do you think about our proposed obligation for CATOs to fund new asset investment during the revenue term?	We have assumed here that Ofgem is not expecting CATOs to have in place committed financing to fund new asset investment during the revenue term (contingent funding would be an expensive way of funding uncertain investment and would not be value for money to the consumer), but is instead required to take a general obligation in this respect subject to certain limits. For new and small (threshold to be defined) investment, we believe a revenue adjustment term similar to the Income Adjusting Event (with no threshold) would be appropriate. The CATO would need clarity as to the level of return applicable to additional capital expenditure. For larger investment required where new external funding is required, we believe a more efficient way would be to put on the Licensee a requirement to run a funding competition for external funding. Such onus would guarantee Ofgem and the consumer that new investments are funded in the most efficient ways with funding sources available at the time, compatible with the financing already in place. If introduced, we believe Option 4 of the consultation document has the most merit.

Question 6. What are the main considerations to ensure CATOs are financially robust, particularly during the construction period?	The ingredients for financially robust CATOs are multiple. We list out below considerations for CATO projects during construction and also explain how a stable and transparent regulatory framework will positively influence certainty of funding during construction. To achieve an investment grade during construction, the rating agencies will, we believe, value the following elements: • Construction is not complex and the degree of the design is well developed with limited ability to have late variations • When a project uses multiple contractors, the definition of responsibilities should be clear and allow for an integrated delivery to be assessed as "experienced" overall • How well the risks of cost and time overruns and project performance are transferred to the construction contractor and how much risk the CATO retains • Certainty of funds to meet all costs, including in downside scenarios of construction cost overrun and delay – debt to be unconditionally committed, equity injected or if deferred, it is backed by adequate security, ideally revenue from operations is available during construction and certain once construction is complete and strong contractor security is unconditionally and irrevocably available (for the benefit of senior debt) **Construction cost certainty** A financially robust CATO will have a price certain / date certain construction contract(s) with creditworthy and experienced construction contractors where design risk variance is minimal and interface risk between contractors is well managed. Such combination will most likely generate a high level of interest from financiers and therefore ensure that a CATO is suitably funded during construction. During the bid phase financial stakeholders (debt, equity, financial adviser and rating agencies) will carry out detailed due diligence to assess the creditworthiness of construction contractors and will value resource allocated to the project (human, financial and parent company support). One of the key elements for consideration will be the amount and form

	of security granted by construction contractors available to senior funders in the event of a financially distressed contractor. Our experience is such that construction contractors will be reluctant to allocate resource (including a robust security package) for projects where the specifications, planning and design are less advanced than for those where the project specifications are more detailed and certain. We believe therefore that it is key to ensure that project specifications are thoroughly detailed and as advanced as possible for the bid stage as this will attract both competitive and price certain bids from contractors and financiers. Financial robustness will naturally follow contractor robustness. Price certain / date certain bids will be supported by committed funding arranged to meet the specific project needs (drawdowns, reserve accounts / facilities). A fixed drawdown schedule will also enable borrowers to fix the interest cost and deliver certainty of finance costs. Such certainty is in the best interest of the consumer. Rating agencies will place value on financial contingencies available to fund costs overruns and delays (reserve facilities, cash contingencies, security package). These will improve the project liquidity (which is key during construction) and reduce the probability of project default. Such projects (with suitable reserves and contingencies) will benefit from a stronger credit rating. It will be key for rating agencies to ensure liquidity reserves and the security package are for the benefit of senior funders (and not the SO) otherwise these will not positively impact the credit rating of the CATO projects. **Transparent and stable regulatory framework** For projects where no revenue is received during construction, finance during construction period tends to be delivered on a "zero return basis" where interest on senior and shareholder debt is effectively funded by additional drawdowns. Therefore, all returns on capital will need to be generated during the 25-year revenue entitlement period during which financiers will look for a stable and transparent regulatory framework. A lot of due diligence will be carried out on creditworthiness of revenue counterparty (the SO) and certainty of revenue (incl. incentives). As is the case with the OFTO, the CATO of last resort will be credit positive for senior lenders. In addition, protections offered by the regulatory framework similar to those received under

	the OFTO (Income Adjusting Event, Exceptional Event) will be necessary to supplement those that are received commercially under the CATO insurance policies. Financiers will place less value on untested elements of a newly established regulatory framework. As has been the case with the OFTO, tested elements of a regulatory framework will be seen positively by rating agencies and enhance the probability of achieving investment grade rating during construction.
Question 7. What do you think about our proposal that CATOs should provide a construction security and have a credit rating during construction? How might this affect costs to consumers?	We do not agree with the requirement for the CATO to post security with the SO under the STC during the construction period as we believe it would preclude such security being available for senior funders therefore reducing the financeability of CATO projects as well as impairing their ability to attract a strong rating. As detailed in question 6 we believe it is important to ensure that the construction contractors' security package is directly callable by senior funders (and not the SO) otherwise this will substantially reduce the chances of attracting senior funding on competitive funding terms (vital if CATOs are to attract the institutional debt investment required for the length of debt tenor). In addition, construction contractors will have finite resource that can be allocated to projects (PCG, performance bond) and such provision is likely to (i) reduce construction contractor appetite to bid for CATO projects and (ii) reduce the senior funders' appetite to fund senior elements of the CATO funding needs. We do not consider this is efficient nor would it in anyway provide any additional incentive on a CATO not to get into financial difficulty during construction - the incentives are already extremely strong (asset delivery / commencement of revenue). Based on PFI experience, project financed construction projects tend to be sub investment grade (even when supported by a strong security package and financially solid construction contractors) eventually notching up to investment grade upon successful completion of the project. However, more recently rating agencies have placed value on large stand-by liquidity pots supporting projects during construction (eg those offered under the EIB PBCE initiative). Such liquidities have proven credit positive, sometimes taking the rating of the project to "low investment grade" during construction for those projects delivered under

	stable economies, procured by a credible regulator and delivered by experienced contractors. However we believe the majority of construction projects will be rated sub-investment grade during construction and believe that a requirement to hold an investment grade during construction will be unduly restrictive. Furthermore, we do not believe imposing gearing constraints on CATOs will result in more efficient/competitive funding. We believe that credit standing overall could, however, be a factor in evaluating the robustness of a CATO bid.
Question 8. Do you have any views on our proposed CATO of last resort policy?	As detailed in question 6, we believe the CATO of last resort mechanism will be credit positive for senior lenders to the benefit of debt pricing. Such mechanisms are essential for projects where borrowers are restricted from granting security over the assets to lenders (due to regulation).
Question 9: What do you think of the scope of proposed changes to industry codes and standards for CATOs that we set out in Appendix 4. What do you think would be the best mechanism for us to facilitate bidder market understanding of industry codes and standards (bearing in mind that Ofgem resourcing is limited and that there will always be a requirement for bidder due diligence)?	As a member of the STC Committee we are very familiar of the detail of the STC and the governance process. Whilst there are potentially changes to a significant number of documents, we envisage that many of the changes would be minor and could be quickly implemented through the fast-track or self-governance processes. We also recognise that there may be consequential changes to other codes which could be dealt with in a similar manner. We are willing to take part in working groups to assess the changes required. Bidders should be made aware through the tender process of the obligation to comply with the relevant industry codes and standards and should be asked to provide evidence of their understanding of their obligations as part of the tender process. It should not be a requirement of Ofgem to educate bidders on their obligations under these industry documents and if a bidder cannot demonstrate adequate understanding it should not qualify to tender.
CHAPTER: Four	

Question 1: What do you think about our proposal to start CATO revenue on completion? Do you have any views on whether there would be benefit in allowing some revenue before completion for certain types of project, and if so, what should this be tied to?	Overall, we believe that construction projects would benefit from liquidity provided through revenue during construction (be it in the form of milestone payments or ongoing revenue). This is particularly relevant for a project with an extended construction period. Where no revenue is received during construction then interest payments for senior and shareholder debt will be capitalised. The extent of the over-sizing will depend on the level of funding costs and length of construction period but it may increase the funding requirement of a project by c.10%. The greatest credit risk to a ring-fenced project financed SPV for any construction asset is insufficient liquidity to cater for cost overruns and/or delays. Liquidity is required to fund the SPV's additional costs which include construction and associated costs, but also includes the additional debt and equity interest that may be incurred as consequence of unforeseen events. If no revenue is received during the construction period, the additional liquidity will either have to be reserved at Financial Close (through stand-by facilities normally deemed to represent poor value for money), or as more commonly occurs in infrastructure limited recourse financings, require the contractor to incur the additional costs. These costs are likely to be significant and will require either a single credit-worthy contractor or a contractor JV to wrap the construction risks. Construction projects which allow a portion of revenue during the construction period (for example, Thames Tideway) will attract more competitive funding terms and more robust credit ratings than those that do not. We also believe that it will be important to have a transparent definition of completion and a clear mechanism for dealing with any delays to Completion.
Question 2: What do you think about our proposal to align the depreciation period with the CATO revenue term?	We agree that this is the simplest approach and if it is also in the consumers' interest as indicated in para 4.14 of the consultation document, we cannot see a reason not to adopt this approach.

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Question 3: Do you have any views on our proposals for arrangements at the end of the revenue term?	We agree that the CATO should continue to own and operate the assets after the end of the initial 25-year revenue term. This is consistent with Ofgem's desire that the investors in the CATO assets stay in for the revenue term and beyond (cf para 4.27 of the consultation document) and would provide better value for consumers as CATO bidders are likely to ascribe some value to this continuing ownership.
Question 4: Do you have any views on our proposed debt refinancing sharing arrangements?	We believe that the requirement to share refinancing gains should depend upon the complexity of the construction and the method of financing. We do not agree that the PF2 methodology would be suitable for a relatively untested regulatory framework and certainly less commoditised industry than PFI which includes less complex projects and less critical infrastructure. It is helpful that a 'pre-baked' refinancing will not be included such that a refinancing gain in the event of a bridge to bond take-out would not be captured. However, in the current market 25 years is considered a long tenor and refinancing may well be required by a CATO. It seems unfair that the consumer should take the benefit of any gain without offering any protection in the event of a loss linked to a credit event, unconnected to project performance. If introduced, we believe that refinancing gain share to mirror the OFTO regime would be well understood by bidders.
Question 5: What do you think about our proposal to include a mechanism to capture some of the benefit of a CATO equity sale? What impact do you think it would have on the cost of capital bid during the tender?	We recognise the desire to attract long-term investors to the sector for the revenue term and beyond. Whilst we are long-term investors in assets and have never sought to transfer equity in projects, it is not necessarily beneficial to the consumer to restrict the secondary market in equity (as well as debt) by introducing gain share mechanisms. Investors in the secondary market for infrastructure assets include the likes of pension funds, institutions and individual retail investors who may not otherwise be able to gain exposure to the investment class. The liquidity offered by the PPP/PFI secondary market has resulted in a steady reduction over the last decade of equity returns on those projects which has had a value for money benefit for the public sector.

	Moreover the existence of a thriving market for equity investments in projects allows developers (those who bid for projects and thus provide the competition within the procurement phase and who invest in these projects during construction) to recycle their investment into new schemes. It is widely accepted that many investors in projects do not want to invest while there remains construction risk and the transferability of equity allows such investors to access the asset class once this risk has reduced. It is also often forgotten that for each project won and invested in by a developer a number will have been lost with consequential exposure to bid costs etc. The transferability of equity at a profit for the original developer needs to be seen against this background; where the "profit" from one project that is transferred needs to be set against the losses incurred on unsuccessful bids for other projects. Any limitation on the transferability of equity may have the effect of increasing certain investors' return requirements to compensate for any additional illiquidity (albeit it would have no impact on us as an investor).
Question 6: What do you think about our proposed risk allocation for CATOs? How do you think we can best mitigate and/or allocate risks associated with preliminary works?	We welcome the fact that as a general principle Ofgem considers that CATOs should be exposed to risks that it is economic and efficient for them to manage (cf para 4.38 of the consultation document). The table in Appendix 7 which sets out the proposed risk allocation is very high level and not in sufficient detail to capture what we would consider an appropriate risk allocation (in line with the above principle). For example for an offshore 'bootstrap' project we understand that cable supply and installation contractors may not provide fixed prices even if full detailed geophysical and geotechnical sea-bed surveys have been carried out. Under these circumstances the ground risk will either need to lie with the CATO equity investors (through contingency) or with consumers. Depending on the project it may be more 'economic and efficient' for the consumers to at least share in this risk. Subject to suitable business separation arrangements being put in place, we still have concerns that the process for agreeing and amending outages required for construction may benefit some (incumbent TO/SO) bidders over new entrants.

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	With respect to the risk from preliminary works, we agree that if a bidder can due diligence a risk ("known unknowns") then if a bidder is uncomfortable with that risk it should flag the risk as part of the tender process and: i) If appropriate the risk should be dealt with prior to completion of the invitation to tender stage; ii) The bidder could decide to price in the risk; iii) The bidder could caveat its bid against receiving protection for that risk; or iv) The bidder could decide not to bid at all. However, there are potentially some risks that could not have been evident from a due diligence process ("unknown unknowns") and it is not reasonable to ask bidders to take these risks. A possible example would be if there was an "Amendment Agreement" to a land agreement that was not made available through the data room and which placed additional risk or cost on the CATO – if the bidder could not have known that such an agreement existed then it would not be reasonable for it to assume such a risk. We do have some concerns as to how the party carrying out the preliminary works is going to be suitably incentivised to perform these works to the required standard. We would welcome further detail on this aspect of Ofgem's proposals. In general though we would expect this risk allocation to be set out in more detail and for that detail to be consulted upon at the first opportunity.

{End}