

Dear All

CP166 – WWA welcomes Ofgem clarification that it does not see a problem with a number of parties giving user names to a single consultant/third party. However, we took the view that fact the CM rules explicitly only allows a third party to be the Agent for one party meant the policy intent was to stop a consultant/third party having the ability to act for more than one party. We assume this was to stop the third party being effectively able to set prices for multiple parties in the auction, rather than as a barrier to get market participants qualified.

We have therefore given some more thought to what we assume are “system issues” for the Delivery Body, to find a different approach. We believe it would be possible for any party to sign a written declaration (new Exhibit to the Rules or a simple pre-agreed e-mail format), which is sent to the delivery body by e-mail, notifying a “prequalification agent user name”. The party itself would set up the user name, as it would any other, but after pre-qualification the Delivery Body would manually cancel those pre-qualification agent user names from the system, so the agent could not be in a position to participate in the auction for that party. We assume the manual cancelation of these logins would not take more than a few hours of someone’s time, which seems a proportionate request of the Delivery Body to aid competition by increasing prequalified parties.

We can see the point that this is in effect a more formal way to simply allow anyone a user name and only a post auction audit would discover if any third party had facilitated collusion in some way in breach of competition law. However, we suspect having some audit trail along the lines described would be useful to the third parties (not formally acting as agents) and the CMU owners to formalise the process.

If terms of the benefit, WWA was approached by 10 parties seeking help with pre-qualification, the majority being new market entrants. It would be significantly easier for these parties to pre-qualify if a third party can help them upload documents, check everything is there, etc. This could be a role for the Delivery Body and it has previously be proposed that a two step pre-qual process would allow parties to get a sense check from the Delivery Body. However, last year the feedback was that the Delivery Body did not provide reasonable support.

As noted above, we are delighted by Ofgem’s position, but if BEIS is less delighted the solution above may be workable instead.

I would of course be happy to discuss this further if of help.

Best wishes

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