

Joseph Cosier
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

Aqua Consultants
Link 606 Office Park
Staithgate Lane,
Bradford,
BD6 1YA
+44 (0)1274 661 444
info@aquaconsultants.com
www.aquaconsultants.com

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Dear Joseph,

Aqua Consultants' response to Ofgem's "Market facilitator delivery body" consultation

Thank you for the opportunity to respond to this consultation. In a complex market with multiple participants, ensuring the market runs smoothly is essential. As we note in our response to Ofgem's Future System Operator (FSO) consultation, getting the right energy mix to the right customers now but also in the future will greatly contribute to achieving Net Zero but also to levelling up Great Britain, facilitating new customers in different geographies and the development of new industries and technologies. It is critical that these decisions are got right now.

Our response covers two main areas. Firstly, we consider the proposed design principles thorough and well-considered. We propose minor suggestions for you to consider, such as a non-discriminatory duty, a responsiveness duty, and a FSO collaboration duty. Also, the requirements for the market facilitator to demonstrate its successful performance could be enhanced.

Secondly, some further work would be beneficial that expands on the remits of both the market facilitator and the FSO: making this explicit will help drive the right decision. We are not clear on the independence, boundaries, and intersection of responsibilities of the two organisations. There is the potential for conflicting priorities, (dis)economies of scale and scope and transaction costs of choosing a single combined provider or separating them. We therefore feel unable to recommend either option at this stage.

There may also be additional benefits from separate organisations: the additional specialisation may create centres of excellence with greater focus and innovation. However, it could create siloed working when collaboration is critical.

Elxon is well-regarded in the industry and had a good track record in market administration, which may provide a smoother transition between the old and new arrangements. The comparison with a theoretical ESO is difficult to make.

If the additional work to define the two roles results in the market administrator performing a narrower function, limited overlap of responsibilities and unlikelihood of divergent priorities, there is likely to be greater benefit in separate organisations. If the converse holds then a joint FSO-market facilitator may be the superior choice.

We provide detailed answers to the consultation questions overleaf.

If we can assist in developing your plans any further, please do not hesitate to contact us.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tom Hall', with a large, sweeping flourish extending to the right.

Tom Hall
Chief Economist

Responses to consultation questions

Q1. Do you agree with the proposed market facilitator design principles (in paragraphs 2.22 - 2.28)? If not, what additions or changes do you suggest?

Your design principles are sensible. We consider them a suitable framework for the market facilitator's activities. While the seven principles are fine as they are, we suggest the following for consideration:

- A non-discriminatory function: a level playing field for all market participants will also be critical for a well-functioning market.
- Responsiveness to directives: the need to respond to directives from Ofgem and government, including clarity over the structure and hierarchy of bodies responsible for planning and managing the future energy networks.
- Collaboration with the FSO: if the market facilitator is separate a separate body, it may be worth making explicit the necessary collaboration with the FSO.

Q2. Do you think some of the design principles are more important than others? If so, which should we attach greater weight to?

All are important for a successfully functioning market. We are encouraged to see a high weighting towards behavioural principles: the need for impartiality, inclusivity, collaboration, and transparency are extremely important.

As we discuss in our covering letter and in our response to Q7, we are somewhat unclear of where the market facilitator body sits in relation to other future network planning & functioning bodies. Clarity on this will inform how strategic the body needs to be and how much it is a "rule maker" or a "rule taker", and therefore how important the strategic elements of the principles are relative to others.

Accountability is also a key principle: the market facilitator must be able to demonstrate how it is:

- balancing competing priorities and stakeholder views,
- achieving (or is on the path to achieving) its objectives,
- ensuring fair market access to all participants, and
- facilitating the existing, but also future network effectively.

Q3. How important is it for the market facilitator to be able to align transmission and distribution flexibility market arrangements? Why?

It is important that transmission and distribution flexibility market arrangements are aligned as it is critical that energy is in the right place at the right time. This is essential for both for the current energy network but also the future network.

Q4. How important is ease of implementation and enabling a smooth transition when considering the market facilitator delivery body? Why?

A smooth transition is extremely important to ensure continuation of service and to quickly build confidence in the market facilitator delivery body: trust is slow to build but fast to disperse.

We would expect the ease of implementation to be assessed as the development of the market facilitator delivery body progresses, and plans made accordingly. As implementation requirements become clearer, deliverability should be assessed: if needs are more onerous but the benefits are great and certain, this should be the preferred option. Larger investment should not be disregarded if the benefits are there because the end prize is great. Any new arrangements, system or processes must be tested, bedded in, and ideally given a period of side-by-side operation with the existing arrangements to ensure seamless transition on day 1.

Q5. Do you agree with our assessment of Elexon's suitability for the market facilitator role? If not, why not?

We agree that Elexon is well aligned with the market facilitator role. Elexon has demonstrated the behavioural competencies outlined in the design principles and is well trusted in the industry. This is a significant positive compared to the theoretical FSO body as Elexon has a positive track record.

We consider there some risk whether Elexon can take on the significant additional responsibilities and requirements of the new market facilitator. Plans should be developed to give Ofgem, government and stakeholders confidence in this area.

We agree there is the potential for significant cross-over in responsibilities between Elexon and the FSO. As we outline in our cover letter and in our Q7 response, there are pros and cons of having two separate parties provide the activities compared to combining the activities into a single provider. Further work setting out the remits of the FSO and market facilitator and how they are expected to operate together would be a valuable exercise.

Q6. Do you agree with our assessment of the FSO's suitability for the market facilitator role? If not, why not?

It is difficult to assess the FSO's suitability as it does not exist so there is no track record – the evaluation is solely theoretical, and its responsibilities are still somewhat uncertain. We do agree with the assessment made in the consultation.

Given the need for the FSO to be successful for a successful future energy network, it will need to be compliant with all the behavioural design principles, as it has a critical role to play in the new energy framework.

We agree that the potential for improved alignment between transmission and distribution networks are more likely with the FSO, and the great need for improved planning between the short- and long-term futures of energy networks.

Q7. Do you believe Elexon or the FSO is better suited to take on the market facilitator role when considering the design principles and wider considerations?

In short, we think more work is needed to assess the right candidate for the market facilitator role. We think Ofgem should set out in more detail of its vision for how the market facilitator and FSO will operate, which will drive the decision one way or the other.

If the market facilitator:

- is to be more of an independent, balancing and settlement market administrator, with some functions to collaborate and ensure excellent shorter-term market operation, or
- there exists limited intersection of responsibilities, low likelihood of disruptive conflict and divergent priorities between the facilitator and the FSO, as well as low transaction costs,

then there is likely greater benefit for Elexon to take over this role in an enhanced function of its existing operations, as it is already trusted and has a good reputation among market participants.

If the market facilitator is to have a wider remit, with a longer-term view and a large strategic planning function, with significant autonomy and the potential for cross-over or conflicting responsibilities between the FSO and facilitator, it is more likely that there will be greater synergies from combining it with the FSO role.

We do see a potential benefit of creating two separate centres for excellence – one for market functioning and the other for long-term strategic planning. This may allow for greater specialisation, focus and innovation, and therefore improved outcomes overall. This holds particularly if the two bodies can work together in harmony and effectively manage conflicts and intersecting responsibilities. But these issues should be considered at this point in the process and mitigations proposed rather than assuming conflict can be managed.

Finally, there may be value in performing an assessment of additional transaction costs from the different options. It is unclear if there will need to be greater activity incurred by all market participants from interacting with two bodies compared to one, and whether there are economies of scope and scale present from combining both remits in a single body.