
ADE Response
Ofgem Market Facilitator Delivery Body
Consultation
7 February 2024

Context

The ADE welcomes the opportunity to respond to Ofgem's consultation on the Market Facilitator Delivery Body.

The ADE is the UK's leading decentralised energy advocate, focused on creating a more cost effective, low-carbon and user-led energy system. The ADE has more than 150 members active across a range of technologies, including both the providers and the users of energy equipment and services. Our members have particular expertise in demand side flexibility and storage, industrial energy including combined heat and power, heat networks and energy efficiency.

Summary

Since its first proposals, we have supported Ofgem's endeavour to create a market facilitator function and will be happy to contribute to the successful establishment and progression of this role. Upon careful consideration of the merits and demerits of both candidates and representations made to the ADE and its members by both ESO and Elexon, we believe that Elexon is the best candidate for the role. We consider Elexon's reputation for excellence across multiple roles in the energy market, especially their role in handling vast amounts of data and understanding of the wholesale market, speak to their capacity for delivering results. Furthermore, upon reflection of the close relationship the market facilitator will need to have with any future digital infrastructure it seems clear that the candidate with a proven track record in cross-stakeholder project delivery is Elexon.

We fully support the creation of the FSO but believe that the consolidation of market power and influence within one organisation raises serious concerns regarding transparency, accountability, and impartiality. Regardless of historical performance of the ESO, we believe there is a strong case for a separation of powers whereby the FSO is not responsible for the purchasing of flexibility, governing where flexibility is bought and sold, and the rules for buying and selling flexibility. Just as Ofgem is looking to separate the rule establishment from the purview of individual distribution companies, so too should it be separated from the purview of the transmission system. All of our concerns regarding the FSO have been repeatedly raised by ADE and we may have come to a different conclusion had they been robustly addressed by either Ofgem or ESO sooner.

Equally, it is imperative that Ofgem mandate the participation and collaboration of the ESO with the market facilitator.

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?

The ADE agrees with the proposed market facilitator design principles laid out by Ofgem in this consultation. However, there could be additional emphasis on the FSO and Elexon's ability to align to the development of digital infrastructure in the future. We envision that there will be a close relationship between the market facilitator and any governance of the flexibility digital

infrastructure (FDI) and that the decision for who is to become market facilitator cannot be done in isolation of the potential future of the FDI.

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

There should be particular weight given to the design principles of impartiality, transparency and accountability. We believe through our responses to the questions below we demonstrate why such principles are of the utmost importance.

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

It will be important for the market facilitator to be able to align transmission and distribution flexibility market arrangements. However, the ADE can see no reason beyond the remit of the consultations to date that the market facilitator should not have coordinating powers between transmission and distribution system operators.

While the ADE is highly supportive of the work undertaken by Open Networks to date, the pace of change and ambition of proposals is suboptimal. We agree with Ofgem that the acceleration of this work will be key to unlocking the full value of flexibility, so work will need to be done alongside the proposed Regional Energy System Planner to help achieve this and to achieve Ofgem's vision for local flex. Since ESO has been heavily involved in Open Networks to date, it seems reasonable that this should continue, mandated by Ofgem, regardless of who is the market facilitator delivery body. In fact, to imply that the FSO being market facilitator will offer greater opportunity for TX/Dx coordination than Elexon is a tacit recognition that FSO may lack impartiality. In other words, it implies that the only way there will be successful TX/Dx collaboration is if ESO/FSO is in control of the process.

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

As set out by industry in previous consultation responses, avoiding a hiatus in progress is paramount. While progress has been slow, the last thing anyone wants is for this work to be lost and need to be replicated. However, aside from the fact that ESO has been working towards taking on the role since Ofgem's minded-to position last year, we do not consider this should impact the decision on who is the best candidate in the long-term. After all, whomever becomes the delivery body, all hands will be needed to make the facilitation role a success, including the ESO.

Q5 Do you agree with our assessment of Elexon's suitability for the market facilitator role?

The ADE mostly agrees with Ofgem's assessment of Elexon's suitability for the Market Facilitator role and how Ofgem's design principles would be met.

Primarily, we believe their independence from both ESO and DSO flexibility markets is particularly valuable to avoid any inherent bias, as well as their demonstrated competency in administering the BSC code with a great deal of transparency and inclusivity. In managing the code, Elexon adopt a controlled and moderated approach to stakeholder engagement with relevant industry participants, a skill which we would consider especially desirable for this

role. Understanding how to coordinate diverse stakeholders with differing perspectives and interests is an incredibly valuable asset that the market facilitator will need, regardless of who the delivery body is. We do also agree with Elexon's capacity for agility but recognise that developing an entirely new subject of expertise should not be underestimated. However, having taken on new roles in recent years and continually acquiring knowledge through code modification processes, Elexon can be considered well equipped for change.

Furthermore, following from our response back in May 2023, we were pleased to see emphasis has been put on the need for a robust governance mechanism if Elexon were to be given the Market Facilitator role as an unlicensed entity. Clarity of said governance mechanisms would be required before any final decisions are made.

Finally, drawing on our response to question 3, we would need to see leadership from Ofgem in how Tx and Dx market design coordination is dealt with so that a fully independent market facilitator such as Elexon would be supported by all system operators.

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

We were happy to see that additional consideration has gone into the design principle of impartiality. Without a concrete separation of powers between: who holds the purse strings; who sets the rules; and where the commodity is bought and sold, it is exceptionally difficult to escape the scope of real or perceived bias. Despite having almost a year since the minded-to position, we have not seen the significant work that would be needed to build the robust governance mechanisms to mitigate this bias. Despite discussion of additional reporting requirements to bolster stakeholder satisfaction, we still question how exactly these mechanisms and requirements would be put in place, moving ESO/FSO away from their firmly established processes.

The ADE have consistently raised concerns¹ over ESO's ability to transform their transparency and accountability mechanisms as they transition to FSO. Recalling the close relationship the market facilitator will need to have with any future digital infrastructure, continuous delay and overspend on IT projects from ESO further highlights a potential absence of adaptability within the ESO for the future. It is imperative that current approaches to transparency in market design would not be carried over into the FSO's distribution market oversight. Our responses to RII0-2 performance consultations and the recent FSO Draft Licence Conditions Consultation can provide further insight on the issues experienced to date.

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?

The ADE believes that Elexon would be better suited to take on the market facilitator role at this time. Primarily, we would consider their proven track record of excellence in carrying out stakeholder engagement is of particularly high value. Although this is identified as an area of focus and development for the FSO by Ofgem, continued stakeholder dissatisfaction over the years diminishes our confidence that this would be changed moving forward.

Furthermore, as previously expressed and mentioned by Ofgem in the consultation, the capability of the FSO for impartiality is still something that we find particularly worrying. We look

¹ ADE's response to the following: [RIIO-2 BP2 Draft Determinations](#), [Policy Direction of the FSO](#), [FSO Draft Licenses Consultation](#), [End of BP1 Review](#)

at this on the basis of three core questions, including 1) Which organisation will be buying and selling flexibility? 2) Who will be setting the rules for flexibility marketplaces? And 3) Where is flexibility being bought and sold? The consolidation of these powers within one entity will make reaching impartiality especially difficult. Although we agree with Ofgem's method of mitigating this risk, their suggestions still have a strong dependency on the FSO improving transparency and stakeholder engagement, which we are yet to see in practice. More specificity would be required about how this will be changed and the governance mechanisms that are to be introduced. Additionally, as we look forward to the years to come, with regard for the development of a flexibility digital infrastructure (FDI), as mentioned in our previous consultation response the ADE and industry have been consistently concerned with ESO's ability to properly reform their own markets and IT systems at pace, a view that was supported in [Zuhlke's findings](#). Elexon's current data ownership and competency sees them better suited to alignment with the FDI which could be an important requirement of the market facilitator in the years to come. Lessons should be learnt from their management of the Market-wide Half Hourly Settlement (MHHS) programme, which sets an example of their ability to manage multi-year digitalisation projects of significant complexity, whilst working with parties from across the sector.

Despite the above, we don't underestimate the level of expertise that Elexon would need to develop in taking on this role. How this would impact distribution and transmission market alignment would need to be a primary consideration, especially when the ESO/FSO are currently deeply integrated in the local flexibility marketplace. However, given Elexon's exemplary record in stakeholder engagement and consultation we don't doubt their capability to develop the required knowledge. Additionally, we are reassured by their desire to work alongside the FSO in taking on this position, creating a fusion of cross sector expertise.

Finally, we note the importance of not overly burdening the FSO with unfamiliar roles and responsibilities before it has even been established and before its true capabilities are demonstrated. Given that the roles of the FSO would be a markedly different undertaking than current ESO functions, a clear roadmap would need to be set out by Ofgem at the outset in order to provide industry with a level of certainty in the delivery of the further transition to Market Facilitator. This could in turn impact a swift implementation and transition into their new role.

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