

February 2002

Separation of PES businesses:

**Review of C39 of the proposed new
distribution licence**

Decision Paper

Executive summary

This paper concludes the consultation exercise that began in February 2001, looking at how best to amend Conditions 39 and 40 to allow flexibility for distribution licensees to manage their business while allowing sufficient protection for competition in electricity supply. Following responses to the February paper¹ Ofgem proposed to provide also for protection for competition in gas supply, shipping and electricity generation. A paper in September 2001² set out our proposed amendments to achieve this balance.

Conditions 12 and 12A were introduced to PES licences to address concerns that a supply business that was owned by the same company as a distribution business had potential access to confidential information that could be used to distort competition in supply. Such a supply business was also able to share IT, services and personnel with the distribution business in a way that was not open to other suppliers. Following the enactment of the Utilities Act and the introduction of separate licences for supply and distribution, these Conditions became Conditions 39 and 40 of the distribution licence.

The September paper proposed the following changes to Conditions 39 and 40:

- ◆ distribution information need only be kept confidential from gas and electricity supply businesses, electricity generation and gas shipping businesses held by companies associated to the distribution business.
- ◆ the need to maintain full managerial and operational independence would be replaced by a requirement not to restrict, distort or prevent competition in supply, shipping or generation;
- ◆ distribution Licensees would be required to produce a report, which has to be agreed by Ofgem and could be updated with Ofgem's permission, outlining how they will achieve the two main obligations set out in the first two bullet points above. Licensees would also be required to use reasonable endeavours to comply with the measures set out in the report. The report would be published on the distribution company's website;

¹ "Separation of PES businesses: review of Condition 12 licence obligations" Ofgem February 2001

² " Separation of PES businesses: review of Condition 39 of the proposed new distribution licence" Ofgem 2001.

- ◆ the compliance officer's duties would be extended to include monitoring and reporting on conditions other than Condition 39 in so far as those other conditions affect the Licensee's independence from the supply business;
- ◆ Where a distribution business no longer possessed a supply, generation or shipping business these conditions could be switched off under the terms of Condition 2.

Following the September consultation, some changes to the Conditions proposed in the September paper are now suggested. These are outlined in Section 2 of this document. The main changes are outlined below.

- ◆ Condition 39 will allow the disclosure of information about a supplier's consumers to that supplier, pertaining to the period for which that consumer used that supplier.
- ◆ The definition of relevant generator will no longer be included, as it is redundant.
- ◆ A statement from the licensee will be deemed as approved within 60 days of its issue unless the Authority notifies the licensee otherwise.
- ◆ The requirement to set out how the Licensee will manage public perception has been dropped in favour of a requirement to set out how the licensee will maintain independent branding of the distribution business.
- ◆ The statement will need to cover arrangements for sharing premises, databases, property or people only where such arrangements involve a relevant supplier or shipper.

It is now proposed that the compliance officer's role will cover the following obligations, in so far as they impact on suppliers and shippers:

- ◆ Paragraph 1 of Condition 4A, which provides for non discrimination in the provision of use of system and connection services;

- ◆ Paragraph 1 of Condition 36A, which provides for non discrimination in the provision of distribution metering services;
- ◆ Condition 39;
- ◆ Condition 41, which prohibits cross subsidies.

A Section 11 notice will follow this paper on 18 February 2002.

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1. Introduction

Purpose of this document

- 1.1 This document considers the responses received to the proposals paper "Separation of PES businesses: review of Condition 39 of the proposed new distribution licence" published in September 2001. It sets out Ofgem's decisions on the amendments necessary to Conditions 39 and 40 of the electricity distribution licence to take account of recent developments in the industry and to remove the need for derogations. It is proposed that such amendments will take place from 1 April 2002.

Background

- 1.2 Condition 39 of the distribution licence requires the managerial and operational independence of the distribution business. It was introduced to the Public Electricity Supplier (PES) licence as Condition 12 on 1 April 2000 to address concerns that companies running both supply and distribution businesses had the potential to distort competition in the supply of electricity.
- 1.3 Ofgem acknowledged that complete independence of the distribution business would take time to attain. The Condition therefore allowed for derogations against its requirements. Such derogations were conditional on the distribution business agreeing with Ofgem a plan to achieve independence by 1 April 2002, with the potential for some shared services past that date. It was agreed that shared services would only be allowed to continue until 1 April 2005 where such arrangements:
- ◆ did not involve cross subsidy;
 - ◆ were the most cost efficient and economical way for the distribution business to obtain the services; and
 - ◆ did not restrict, distort or prevent competition in the generation or supply of electricity.
- 1.4 New distribution licences were introduced in October 2001 as a result of the Utilities Act 2000. These licences retained the Condition, renumbered as

standard condition 39 but otherwise unchanged. All derogations granted to the PES distribution businesses against Condition 12 continued to apply against Condition 39.

Rationale

- 1.5 This document is the culmination of a consultative exercise begun in February 2001 to consider the continuing effectiveness of the licence conditions introduced to oblige the separation of distribution from supply. Its conclusions take into account the views received from industry participants, the introduction of the new distribution licence as a result of the Utility Act 2000, the increasing pace of change in industry structure and Ofgem's desire to reduce the regulatory burden wherever to do so is consistent with its duties.
- 1.6 Views were invited in a paper issued in September 2001 on proposed amendments to Conditions 39 and 40. This paper responds to the views received and sets out the decisions taken on these proposed amendments.

References

- 1.7 The following documents are referred to in this consultation paper:
- "Separation of PES businesses: review of C12 licence obligations" Ofgem February 2001.
 - "Separation of PES businesses: review of Condition 39 of the proposed new distribution licence" Ofgem September 2001

Structure of document

- 1.8 Chapter 2 summarises the options considered in the September 2001 consultation paper and discusses the responses received. Chapter 3 outlines Ofgem's decisions. Chapter 4 outlines the next steps.

Timetable

- 1.9 Licence changes will be scheduled to take effect from 1 April 2002.

Ofgem contact

1.10 All queries relating to this document should be sent to :

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2. Consideration of respondents views

Summary of previous proposals

2.1 The September 2001 consultation paper considered what amendments might be needed to standard licence conditions 39 and 40 to achieve the following aims:

- ◆ protection of competition in supply of electricity and gas and in gas shipping;
- ◆ reduction of duplication of obligations within the licence;
- ◆ freedom for distribution businesses to seek and implement economic and efficient innovations subject to the protection of competition elsewhere in the energy markets;
- ◆ elimination of the need for derogations from this condition;
- ◆ greater transparency for market players.

2.2 Views were invited on the extent to which these aims had been achieved by the proposed amendments to Conditions 39 and 40.

2.3 The proposed amendments were as follows:

- ◆ distribution information need only be kept confidential from gas and electricity supply businesses, electricity generation and gas shipping businesses held by companies associated to the distribution business. This obligation would not apply to information made equally available to all supply and shipping businesses;
- ◆ the need to maintain full managerial and operational independence would be replaced by a requirement not to restrict, distort or prevent competition in supply, shipping or generation;
- ◆ distribution Licensees would be required to agree a report with Ofgem, outlining how they will achieve the two main obligations specified in the previous two bullet points. This report could be updated with Ofgem permission. The report would include details of arrangements for any

shared property, personnel, premises or services. The specific prohibition on such sharing would be replaced by the requirement not to restrict, distort or prevent competition in supply, shipping or generation. Licensees would also be required to use reasonable endeavours to comply with the measures set out in the report. The report would be published on the distribution company's website;

- ◆ the compliance officer's duties would be extended to include monitoring and reporting on conditions other than Condition 30 in so far as those other conditions affected the Licensee's independence from the supply business;
- ◆ there would be no facility for derogation in the amended condition. Where a distribution business no longer possessed a supply, generation or shipping business these conditions could be switched off under the terms of Condition 2.

Respondents' views

- 2.4 Respondents generally welcomed the proposed amendments to standard Condition 39 of the distribution licence. There was support for Ofgem's aims as stated in the paper and acknowledgement that the proposed amendments went a long way towards achieving these aims. However some respondents felt that there were still changes necessary. For example, some respondents noted that the amended condition would not allow relevant suppliers¹ access to information about their own customers, unless such information was made available to all, and proposed ways to remedy this.
- 2.5 The proposals for an amended Condition 40 were less well received. Many distribution businesses said that to extend the role of the Compliance Officer in the way proposed would be to increase duplication of regulation rather than to add any new safeguards. However, some respondents welcomed the proposed extension of the Compliance Officer's role.

¹ The term "relevant suppliers" is defined in the proposed Condition 39 at Appendix 2 of this paper.

- 2.6 Many respondents submitted detailed responses suggesting drafting changes to the amended conditions. A summary of responses is available in Appendix 1. All responses that were not marked confidential are currently displayed on Ofgem's website at: www.ofgem.gov.uk/projects/busseps_index.htm

Ofgem's response

Condition 39

- 2.7 The responses confirm that Ofgem's approach to Condition 39 strikes a reasonable balance between protecting suppliers and allowing distributors more flexibility to manage their business.
- 2.8 The draft Condition 39 proposed in the September 2001 document would have the effect of denying relevant suppliers access to distribution information about their own customers, unless that information was made available to all suppliers. This was not Ofgem's intention. The proposed Condition 39 has been amended accordingly.
- 2.9 One supplier argued that distribution information should be kept confidential from all suppliers, shippers and generators unless it was made available to all. They further argued that it would not then be appropriate to turn the Condition off when a distribution company no longer had an associated supply, shipping or generation business. In considering this issue it is appropriate to take into account the original intention of this condition. The original condition 12 was introduced to address the perceived incentive that a company possessing both a distribution and supply business had to make confidential distribution business information available to its supply business. Where there is no associated supply business the same incentive will not apply. In these cases, suppliers should be sufficiently protected by the confidentiality clauses in their use of system contracts with distributors. Another supplier argued that the condition should provide that information about specific suppliers should not be made publicly available without the permission of the supplier concerned. Again, this is something that is covered in the contracts between suppliers and distributors.
- 2.10 One respondent continued to argue that provisions in the gas transporter licence covering confidentiality and use of shared property and systems should be

substituted for Conditions 39 and 40. It, and one distributor, argued that Licensees were required by the Competition Act not to restrict, prevent or distort competition in competitive markets and that such a restriction was therefore redundant in the Licence. It is Ofgem's view that the Competition Act would not necessarily apply in all instances that would be caught by this paragraph. The Competition Act only applies in specific circumstances, involving anti-competitive agreements or abuse of a dominant position within a market. While the Act would almost certainly apply to a dominant supply business that misused its relationship with an associated distribution business, it would not automatically also apply to the distribution business involved. It is Ofgem's view that there should be some form of redress against the distribution business in such cases.

- 2.11 One respondent argued that the definition of confidential information was still too broad and that Ofgem should identify what specific information should be covered by this condition. Another argued that there should be the facility for non controversial information, such as that relating to safety issues, to be released within a group of companies providing either the compliance officer or Ofgem agreed that such information was appropriate for release. Ofgem believes that, in general, supply businesses and shippers affiliated to a distribution business should have no more rights to information from the distribution business than any other supplier or shipper. However, genuinely corporate information could be exempted, provided the written agreement of Ofgem was obtained.
- 2.12 The move to require Licensees to put their statements on their websites was generally welcomed. One respondent suggested that the requirement should give a time limit from the date that Ofgem approves the statement. This seems sensible. One respondent said that not all companies had websites and that the obligation should be to send the statement out on request. This would put the onus on the enquirer to discover when changes to the statement were agreed with Ofgem and to make the request. Whilst Ofgem does not intend to insist that every Licensee should have its own website it does believe that every company either has its own website, or has its own page on a group website. In the interests of transparency it therefore makes sense to retain this aspect of the obligation.

- 2.13 One respondent suggested that distribution businesses be required to use best rather than reasonable endeavours to ensure compliance with their statement. However, as the requirements to maintain confidentiality and to run the distribution business in such a way as not to restrict, distort or prevent competition are absolute, Ofgem does not believe that this would significantly increase the protection afforded to suppliers.

Condition 40

- 2.14 All Distribution businesses and one supplier commented adversely on the proposed extension of Condition 40. They argued that compliance with the additional conditions was already monitored, and in some cases audited, by or for Ofgem. They further argued that competition in supply was well under way and that now was the time to be reducing rather than increasing the role of the compliance officer. However, one respondent welcomed the move as providing further protection for suppliers. Ofgem saw the proposed extension of the Compliance Officer's role more as ensuring that where areas of obligation were removed from Condition 39 to avoid duplication, the compliance officer still had a role in monitoring those obligations. Ofgem agrees that giving the Compliance Officer responsibility for facilitating compliance with the entirety of these conditions is unnecessary and would involve some duplication of effort. However, the Compliance Officer should be free to monitor compliance of those aspects of the conditions that touch upon the independence of the distribution business from relevant suppliers. Ofgem agrees that conditions 43 and 44, and the charging aspects of Conditions 4A and 36A, are adequately monitored by obligations within those conditions. It would seem sensible, however, to retain a role for the compliance officer to monitor compliance with the 4A and 36A obligations not to discriminate in provision of services to suppliers and to monitor the existence of cross subsidies between the distribution business and suppliers and shippers.
- 2.15 Some respondents suggested that transparency would be aided by requiring the Compliance Officer's report to be displayed on the distribution company's web site. Ofgem agree that this would be useful.

Transmission in Scotland

- 2.16 A number of respondents said that it would be sensible to extend the amendments to standard conditions 39 and 40 in the distribution licence to the corresponding conditions in the Scottish transmission licences. This proposal will be the subject of a separate proposals document to be issued shortly.

3. Decision

Condition 39

3.1 Ofgem has decided to proceed with its plans to limit the definition of confidential information in Condition 39 and to include the requirement to manage distribution in such a way that it does not restrict, prevent or distort competition elsewhere in the energy industry. Some changes will be necessary to the Condition proposed in the September paper and outlined in Section 2 of this document. The main changes are outlined below.

- ◆ The Condition will allow the disclosure of information about a supplier's consumers to that supplier, pertaining to the period for which that consumer used that supplier.
- ◆ The definition of relevant generator will no longer be included.
- ◆ Paragraph 4 allows Ofgem to vary the date by which the statement should be approved.
- ◆ A statement will be deemed as approved within 60 days of its issue unless Ofgem notifies the licensee otherwise.
- ◆ The requirement to set out how the Licensee will manage public perception has been dropped in favour of a requirement to set out how the licensee will maintain independent branding of the distribution business.
- ◆ Paragraph 5(c) will apply only where arrangements for sharing premises, databases, property or people involve a relevant supplier or shipper.
- ◆ Statements should be displayed on a licensee's website within 5 working days of approval from Ofgem.

3.2 There will be no facility to grant derogations in the new Condition. However, Condition 2 of the distribution licence allows Ofgem to switch off this condition. This will be considered wherever a distribution licence holder can show that no affiliates or related undertakings are involved in supply of electricity and gas or the shipping of gas or the generation of electricity. For the avoidance of doubt,

if the group of companies that includes the Licensee holds shares of a relevant company or of a company involved with generation, but has no operational involvement, this will not necessarily constitute a bar to switching off this condition. The potential for misuse of information or to restrict, distort or prevent competition in such cases is necessarily limited. Cases of this kind will be considered individually, on their own merits.

3.3 Appendix 2 shows the proposed amended condition.

Condition 40

3.4 Ofgem has decided to retain the obligation to appoint and maintain a compliance officer. However, where Condition 39 is switched off under Condition 2 of the distribution licence, this condition may also be switched off.

3.5 It is proposed that the compliance officer's role will to cover the following obligations, in so far as they impact on suppliers and shippers:

- ◆ Paragraph 1 of Condition 4A, which provides for non discrimination in the provision of use of system and connection services;
- ◆ Paragraph 2 of Condition 36A, which provides for non discrimination in the provision of distribution metering services;
- ◆ Condition 39;
- ◆ Condition 41, which prohibits cross subsidies.

3.6 Appendix 3 shows the proposed Condition 40.

4. Next steps

- 4.1 Ofgem will be sending out a Section 11 notice on 18 February 2002. Amendments to the distribution standard licence condition are expected to be effective from 1 April 2002.
- 4.2 A separate proposals paper covering similar amendments to the transmission licences in Scotland will be issued shortly.

Queries

- 4.3 All queries relating to this consultation should be sent to:

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Appendix 1: Respondents views

Respondents generally welcomed Ofgem’s proposal to amend Condition 39 to allow greater flexibility for distribution businesses whilst maintaining adequate protection for suppliers. There was less support for the proposed changes to Condition 40.

Distributors

Distributors made a number of suggestions for amendments to Ofgem’s proposed Condition 39. These are detailed in table one below.

Table 1: Distributor comments on drafting of Condition 39

Para	Comment	Ofgem’s response
1	<p>The definition of relevant generation isn’t picked up elsewhere in the Condition. It should therefore be excluded.</p> <p>The definition of confidential information is still too broad. Ofgem should be more precise.</p>	<p>Agreed</p> <p>See main text. 2.11</p>
2	<p>This paragraph appears to prevent a supplier from gaining access to information about its own customers, unless it is made available to all customers. This should be changed.</p> <p>The sharing of information that has no impact on competition, such as safety information, should be capable of being exempted from this obligation if permission in writing is obtained from either the Compliance Officer or Ofgem.</p>	<p>Agreed 2.8</p> <p>See main text. 2.11</p>

3	<p>This Condition should not include an obligation not to restrict, distort or prevent competition in supply, shipping or generation. This obligation is covered elsewhere in the licence and under the Competition Act.</p> <p>Support for the replacement of the requirement to maintain full independence with this obligation.</p>	<p>See main text 2.10</p> <p>Noted.</p>
4	<p>This paragraph should include the flexibility for Ofgem to change the date for individual companies if necessary.</p> <p>If Ofgem does not notify the licensee otherwise within 60 days, approval should be deemed as granted.</p>	<p>Agreed</p> <p>Agreed.</p>
5	<p>Paragraph 5(b) requires the licensee to manage public perception. This is too open-ended. Should rewrite to require branding with distinct identity from any associated supplier or shipper.</p> <p>The drafting of paragraph 5(c) applies its requirements to all affiliated companies of the distribution business, not just relevant suppliers and shippers. This should be corrected.</p>	<p>Agreed</p> <p>Agreed</p>
6	No comments	
7	No comments	
8	Some distributors do not have a website. This requirement should be replaced by a requirement to provide copies on request.	See main text 2.12

The changes to Condition 40 were, as previously noted, more problematical for distributors. They contended that extension of the Condition in the way proposed would lead to duplication of monitoring and audit from elsewhere. They argued that this would then lead to confusion, with issues more likely to slip through the gaps between the two types of monitoring. Examples given of duplication of protection for suppliers were as follows:

- ◆ Conditions 4A and 36A were monitored through being encompassed in a suite of conditions regarding non discrimination in charging statements. The form of these charges has to be approved by Ofgem and Ofgem has a formal role in dispute resolution.
- ◆ Conditions 43 and 44 provide for their own independent verification. The licensee has to submit a certificate approved by the Board of Directors to Ofgem annually and to use its best endeavours to submit to Ofgem a report from its Auditors confirming that the auditors are unaware of any inconsistencies between the certificate and their findings during audit.

It was also argued that involving the Compliance Officer in Condition 41 was extending his role way beyond that of facilitating the distribution business in ensuring that suppliers were treated equally and fairly.

Some distributors said that the Competition Act and the potential for imposing penalties brought in by the Utilities Act made any extension of the role of the compliance officer unnecessary.

Others

One respondent said that Condition 39 was excessive and that Ofgem should have taken the arrangements in gas as a model. It said that the Competition Act provided sufficient protection for suppliers without a requirement not to restrict, prevent or distort competition. It said that Ofgem had failed to make a case for not following this route.

The two remaining respondents were supportive of the general aims of the changes to Condition 39. There were, however, a number of suggestions for amendments to Ofgem's proposed Condition 39. These are detailed in table two below.

One respondent supported the scope of the duties allocated to the Compliance Officer. Two opposed the scope on the grounds that the duties had been unnecessarily extended, given the current involvement of energywatch and Ofgem in scrutiny of compliance and the current background of successful competition in supply.

Table 2: Other comments on drafting of Condition 39

Para	Comment	Ofgem's response
1	Support for the definition of confidential information.	Noted.
2	<p>This paragraph should apply to all suppliers and shippers, not just those related to a distribution business.</p> <p>This paragraph should make it clear that information about specific suppliers and their clients should not be made public without the permission of the supplier concerned.</p>	<p>See main text 2.9</p> <p>See main text 2.9</p>
3	No comments	
4	No comments	
5	<p>Paragraph 5(b) requires the licensee to manage public perception. This is too open-ended. Should form part of obligation not to distort competition.</p> <p>The drafting of paragraph 5(b) should apply to all suppliers and shippers, not just relevant suppliers and shippers. This should be corrected.</p>	<p>Agreed.</p> <p>See main text 2.9</p>
6	No comments	
7	Suggest reasonable endeavours replaced with best endeavours. Would be consistent with Transporters' licence.	See main text 2.13
8	Welcome move to put statement on website. Should be requirement to update website within 5 working days of approval by Ofgem.	Agreed. 2.12

Appendix 2: Proposed modification to Condition 39

Condition 39. Restriction on use of certain information and independence of the Distribution Business

1. In this Condition:

‘Confidential information’ means information relating to, or derived from, the distribution business which is not published or otherwise legitimately in the public domain; and

‘Relevant supplier or shipper’ means the holder of an electricity or gas supply licence or a gas shipper’s licence, which is an affiliate or related undertaking of the licensee.

2. The Licensee shall put in place and at all times maintain managerial and operational systems which prevent any relevant supplier or shipper from having access to confidential information except and to the extent that such information:
- a) is made available on an equal basis to any gas or electricity supplier or gas shipper or
 - b) appertains to a customer who at the time to which the information relates was a customer of the relevant supplier.
3. The Licensee shall at all times manage and operate the Distribution Business in a way calculated to ensure that it does not restrict, prevent or distort competition in the supply of electricity or gas or the shipping of gas or the generation of electricity.
4. Unless otherwise directed by the Authority, the Licensee shall no later than 31 May 2002 have in place a statement (in this Condition “the statement”), approved by the Authority, describing the practices, procedures and systems which the licensee has adopted (or intends to adopt) to secure compliance with paragraphs 2 and 3.
5. Where the Authority does not indicate otherwise within 60 days of receipt of the statement, the statement shall be deemed to be approved by the Authority.

6. The statement shall in particular (but without prejudice to the generality of paragraphs 2 and 3) set out how the Licensee shall:

a) maintain the full managerial and operational independence of the Distribution Business from any relevant shipper or supplier;

b) maintain the branding of the distribution business so that it is fully independent from the branding used by any relevant supplier or shipper;

c) secure that any arrangements for the use of or access to:

i) premises or parts of premises occupied by persons engaged in, or in respect of, the management or operation of the Distribution Business ;

ii) systems for the recording, processing or storage of data to which persons engaged in, or in respect of, the management or operation of the Distribution Business also have access;

iii) equipment, facilities or property employed for the management or operation of the Distribution Business ; or

iv) the services of persons who are (whether or not as their principal occupation) engaged in, or in respect of, the management or operation of the Distribution Business ;

by any relevant supplier or shipper or by any person engaged in or in respect of the activities of such a relevant supplier or shipper shall be such as to prevent any breach of the requirements of the requirements of those paragraphs; and

d) manage the transfer of employees from the Distribution Business to any relevant supplier or shipper. The Licensee may, with the approval of the Authority, revise the statement prepared in accordance with paragraph 4.

7. The Licensee shall take all reasonable measures to ensure compliance with the terms of the statement as from time to time revised and approved by the Authority.
8. The licensee shall publish a copy of the approved statement prepared in accordance with paragraph 4 (or the latest approved revision) on its company's website within five working days of its approval by the Authority.

Appendix 3: Proposed modification to Condition 40

Condition 40. Appointment of Compliance Officer

1. The Licensee shall ensure, following consultation with the Authority that a competent person (who shall be known as the “compliance officer”) shall be appointed for the purpose of facilitating compliance by the Licensee with standard condition 39, Paragraph 1 of standard conditions 4A and 36A, and, insofar as it relates to relationships with suppliers and shippers, standard condition 41.
2. The Licensee shall at all times ensure that the compliance officer is engaged for the performance of such duties and tasks as the Licensee considers it appropriate to assign to him for the purposes specified at paragraph 1, which duties and tasks shall include those set out at paragraph 5.
3. The Licensee shall procure that the compliance officer:
 - (a) is provided with such staff, premises, equipment, facilities and other resources; and
 - (b) has such access to the licensee’s premises, systems, information and documentation

as, in each case, he might reasonably expect to require for the fulfilment of the duties and tasks assigned to him.
4. The Licensee shall make available to the compliance officer a copy of any complaint or representation received by it from any person in respect of a matter arising under or by virtue of those standard conditions and parts of standard conditions specified in paragraph 1.
5. The duties and tasks assigned to the compliance officer shall include:

- (a) providing relevant advice and information to the Licensee for the purpose of ensuring its compliance with the relevant duties;
- (b) monitoring the effectiveness of the practices, procedures and systems adopted by the Licensee in accordance with the statement referred to at paragraph 4 of standard condition 39;
- (c) advising whether, to the extent that the implementation of such practices, procedures and systems requires the co-operation of any other person, they are designed so as reasonably to admit of the required co-operation;
- (d) investigating any complaint or representation made available to him in accordance with paragraph 4;
- (e) recommending and advising upon the remedial action which any such investigation has demonstrated to be necessary or desirable;
- (f) providing relevant advice and information to the Licensee for the purpose of ensuring its effective implementation of:
 - (i) the practices, procedures and systems adopted in accordance with the statement referred to at paragraph 4 of standard condition 39; and
 - (ii) any remedial action recommended in accordance with subparagraph (d); and
- (g) reporting annually to the directors of the Licensee - in respect of each year after this standard condition comes into force - as to his activities during the period covered by the report, including the fulfilment of the other duties and tasks assigned to him by the Licensee.

6. As soon as is reasonably practicable following each annual report of the compliance officer, the Licensee shall produce a report:
 - (a) as to its compliance during the relevant year with the relevant duties; and
 - (b) as to its implementation of the practices, procedures and systems adopted in accordance with the statement referred to at paragraph 4 of standard condition 39.

7. The report produced in accordance with paragraph 6 shall in particular:
 - (a) detail the activities of the compliance officer during the relevant year;
 - (b) refer to such other matters as are or may be appropriate in relation to the implementation of the practices, procedures and systems adopted in accordance with the statement referred to at paragraph 4 of standard condition 39; and
 - (c) set out the details of any investigations conducted by the Compliance Officer, including:
 - (i) the number, type and source of the complaints or representations on which such investigations were based;
 - (ii) the outcome of such investigations; and
 - (iii) any remedial action taken by the Licensee following such investigations.

8. The Licensee shall submit to the Authority a copy of the report produced in accordance with paragraph 6, and shall publish the report on its website.

Appendix 4: List of respondents

Below is a list of respondents whose views are summarised in this report.

Distribution Businesses

East Midlands Electricity (Powergen)
GPU Power UK
LPN
NEDL/YEDL
SEEBOARD
Scottish Power
S + S
TXU Europe Distribution
United Utilities
Western Power Distribution

Others

British Gas Trading
Innogy
Transco
