

**Offshore gas production information
disclosure**

**Initial consultation and draft impact
assessment**

February 2005

Summary

Background

There has been considerable debate involving the industry, government and customers about the current level of transparency in the wholesale gas market and about how much information should be made available on offshore gas production. Customers and customer groups have argued that the current level of disclosure reduces transparency adding unnecessary risk and uncertainty and contributing towards increased price volatility in both forward and spot wholesale gas prices. Customer concerns are shared by a number of energy suppliers, gas shippers and traders. A number of gas producers have expressed concern that greater transparency would not bring any significant benefits to the operation of the market but could harm them commercially.

The issue of offshore gas production information disclosure is not new. In response to concerns highlighted by Ofgem, customer groups and some onshore energy companies, the Department of Trade and Industry (DTI) negotiated a voluntary scheme between the United Kingdom Offshore Operators Association (UKOOA), the industry association that represents the major gas producers and National Grid NGT (NGT), the owner and operator of the high pressure pipeline network used to transport gas onshore for the provision of additional information about the availability of offshore gas supplies.

Under this agreement, producers voluntarily provide NGT with information on available gas production. This includes information on planned maintenance affecting available gas supplies and on unplanned maintenance when there is an unexpected loss of gas supplies offshore. NGT have been able to use this additional information in planning the long term development of the onshore network, in operating the system and assessing the outlook for security of supply this winter.

As part of this voluntary agreement, it was agreed that some of this information would be published to the wider market in the third and final phase of the voluntary scheme. This related to four categories of information to be released to the wider market. On 1 October 2004, NGT began publishing aggregated information showing, for the Northern and Southern parts of its network, the amount of gas supply that was available after adjusting for planned and unplanned offshore maintenance. NGT also began publishing information on the actual physical flows of gas at all the individual entry points into its

network with a one day lag. This information is published on NGT's website at <http://info.NGT.co.uk>.

By then end of March, NGT has committed to publishing data which aggregates (on a North-South basis) offshore gas producers' assessment of gas flows for the next day. By the end of September 2005, NGT will start publishing regularly updated data throughout the gas day on actual gas supplies to the network aggregated on a North-South basis covering for all entry points located in each zone. The delay in publishing some of this information reflects NGT's requirements to develop and test the necessary IT systems.

The onshore regulatory framework determines what information NGT has to publish to the wider market. NGT's gas transporter's licence has a condition that obliges NGT to publish information where it is required to do so under its Network Code. The Network Code is a multi-lateral contract between gas suppliers, shippers and NGT that determine the rules for access to, and use of, the high pressure pipeline system. Gas suppliers, shippers and customers can propose changes to the Network Code rules that must be approved by Ofgem.

When the voluntary scheme was introduced, NGT and producers were concerned that changes to the Network Code could be proposed and approved that would oblige NGT to publish more information than had been agreed under the voluntary scheme. The gas producers therefore reserved the right to recall certain information provided to NGT under the voluntary agreements if a Code change was approved. NGT was concerned that this could place them in breach of the licence obligation.

In discussions with the DTI, Ofgem had always expressed its preference for a legislative approach to the provision of information rather than voluntary arrangements. In electricity, for example, generators are obliged to provide analogous information to NGT through conditions in their generation licences that oblige them to comply with requirements under NGT's Grid Code. Once the DTI had decided to proceed on a voluntary basis, Ofgem agreed to try to facilitate the introduction of the scheme in recognition of the significant benefits that further information disclosure would bring to the wider market and to customers, even on a voluntary basis.

Ofgem therefore consulted in March 2004 on whether to issue a 'temporary derogation' to NGT's licence obligation so that it could enter into the voluntary agreements with producers. The majority of respondents, including customers, supported Ofgem's

approach as they too recognised that although the voluntary arrangements were not ideal, the provision of additional information would bring significant benefits. At the same time, Ofgem committed to consulting upon an enduring set of onshore regulatory arrangements. Ofgem has, since June 2004, had to devote significant resources to its ongoing probe into the causes of high wholesale gas prices. This is the reason for the delay in issuing this consultation.

Recent developments

Since the discussions in 2004, wholesale gas prices for this winter (and next) have risen significantly. The wholesale market has also seen unprecedented price volatility. In response, customers (and the groups representing them) have expressed concern that a lack of offshore information may be behind some of this volatility. In November energywatch, the energy consumer watchdog, proposed Network Code modification (727). This would oblige NGT to publish more information on offshore production than was agreed as part of the DTI-sponsored agreement. This would include publication of more disaggregated information on actual gas supplies through the major entry terminals where gas comes on shore close to real time. The proposal is currently scheduled to come to Ofgem for a decision in March. NGT has indicated that the earliest possible implementation date, when the necessary IT systems could be developed and tested, would be in Q2/Q3 2006.

Ofgem's consultation

Ofgem continues to support, as a matter of principle, greater transparency in the onshore gas market. Greater transparency will benefit customers by significantly reducing the risk that uncertainty and/or lack of information increases price volatility in both the spot and forward gas markets. Ofgem does recognise, however, that there are legitimate concerns about the how much information should be provided. Producers are concerned that if too much information is published, it could harm them commercially by, for example, exposing to the market that a major gas field has unexpectedly ceased production.

The purpose of this consultation is to consider whether changes need to be made to the current onshore regulatory arrangements that relate to the release of offshore information. Under the current arrangements, the amount of information on offshore

information that NGT publishes can be modified through the Network Code, subject to the approval of Ofgem.

NGT has expressed some concern about the current arrangements. Gas producers have expressed some concern about the current arrangements because they do not define clearly what information will be disclosed and what information will not be disclosed. If no changes are made, there is a risk that some (or all) of the producers will withdraw from the voluntary arrangements and information will stop flowing to NGT and wider market.

In this context, this document invites views on three options. Option one is to leave the current arrangements unchanged and withdraw the temporary derogation. Although in doing so Ofgem would also seek to provide further guidance. Under options two and three, Ofgem would modify NGT's licence, albeit with slightly different approaches, but with the same intended effect of indicating to producers and the market what information NGT would and would not be required to disclose. The document also presents a draft impact assessment (IA), presenting indicative figures on the likely magnitude of benefits and costs that could flow from offshore information release and some initial consideration of the likely benefits under the different options.

Way forward

Ofgem invites views on the options and the draft IA presented in this document. Based on the responses to this consultation there are two main routes. Under option one, Ofgem would retain the existing arrangements, but withdraw the temporary derogation and issue new guidance by the end of May 2005. Options two or three would require licence changes and therefore would require Ofgem to consult again on the specific licence change proposals. Under these options, the new arrangements would be in place by July 2005.

Ofgem has decided that the temporary informal derogation should remain in place until the new arrangements are in place. Ofgem would intend to consider the energywatch modification after this consultation has closed.

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1. Introduction

Purpose

- 1.1. The DTI has initiated a voluntary scheme which has resulted in the improved flow of information from offshore producers to NGT and in turn has allowed NGT to release certain information to the market. Progress on the voluntary provision of information has been hampered by the producers' concerns that information they considered as commercially sensitive could be released to market. Over the past eighteen months Ofgem has issued various pieces of guidance and a temporary informal derogation, which have provided the basis for progress of the voluntary scheme. Ofgem noted however in granting the temporary informal derogation, that this was not considered to be an enduring solution as it has no statutory basis or basis in the licence.
- 1.2. The purpose of this document is to consider the options for the way forward in the context of the voluntary arrangements that result in the continued flow of information from offshore producers to NGT to facilitate efficient planning and operation of its transportation network and at the same time maximise the amount of information that can flow to the wider market.

Rationale

- 1.3. In recent years, Ofgem has continued to receive concerns from market participants, including NGT, customers and shippers, regarding their limited access to gas system operation and offshore information. Where access to certain offshore information is available, there are concerns that this information is not available to everyone and that information is not made available quickly enough to enable the market and companies to react. These above concerns have a number of implications for NGT in its role as system operator and for other market participants including traders, suppliers and customers.
- 1.4. In terms of system operation, NGT indicated that the operational uncertainties that it faces in predicting gas flows on the day are exacerbated by its inability to access reliable offshore outage information both ahead of the day and within day. Ofgem considers that a lack of information to NGT can result in it taking

unnecessary actions to balance inputs and offtakes on the system, imposing unnecessary costs on the market. A lack of information to market participants also reduces their ability to react to and address supply shortfalls and balance efficiently. As a result, more reliance is placed on NGT to address such shortfalls over short time frames, increasing the costs of operating the system. At its extreme, the absence of timely information to NGT and other market participants may leave insufficient time to source gas in the event of any supply shortfalls which may increase the likelihood of a gas emergency.

- 1.5. A lack of information and transparency may also contribute towards greater volatility in forward and wholesale gas prices. Without information on available gas supplies and the impact of maintenance, traders, suppliers and customers will find it more difficult to understand the causes of sudden movements in wholesale gas prices. This may lead to higher risk premia being charged to cover these risks and may also inhibit trading and liquidity.
- 1.6. Improved offshore information in relation to planned maintenance schedules would also have benefits to system operation, as it would enable NGT to coordinate its own outage plans for network maintenance to coincide with planned production outages by offshore producers.
- 1.7. Ofgem has also identified asymmetric access to commercial and operational information by market participants as a factor that could contribute towards volatility in wholesale gas prices and increased balancing costs, which could create barriers to market entry. Asymmetric access to information may allow certain market participants to predict when NGT will need to take a balancing action and enable these participants to forecast the direction of prompt prices ahead of the rest of the market.
- 1.8. Some parties have considered that their position in the wholesale gas market is being compromised, in particular by virtue of competitors with offshore affiliates having access to better information. For example, shippers with producer affiliates may be able to trade on the basis of this information to their advantage well ahead of other participants. Ofgem considers that this behaviour, or the

perception that it is occurring, has the potential to create significant volatility¹ for all market participants and increase barriers to entry.

- 1.9. The large movements in wholesale gas price rises — particularly the movements in prices ahead of winter 04/05 — have heightened the calls from customers and shippers for greater transparency in relation to offshore information. Ofgem recently published a probe into price rises that occurred in 2003² and extended this probe to cover more recent price rises. Ofgem’s analysis helped to explain most of the main drivers of these price movements, although two aspects of the gas probe remain open. Nevertheless, market participants have expressed a desire to be better able to determine and act upon information when faced with potential price movements and on this basis are calling on greater transparency in relation to offshore regime.
- 1.10. Ofgem has shared these concerns and has argued³ that more information should be released to market participants and to customers. In particular, Ofgem considers that participants who have access to offshore information through their offshore affiliates could be at a competitive advantage compared to those without offshore affiliates, and could act as a barrier to entry.
- 1.11. In the light of these concerns and, in particular, in response to the summer 2003 gas interruptions⁴, the DTI (in consultation with Ofgem, UKOOA, terminal operators and NGT) has developed a three-phase voluntary scheme for the disclosure of offshore information to NGT and the wider market. The first two stages have been implemented and relate to improving and standardising information provided to NGT on gas flows; planned and unplanned outages; and the disclosure of operational and planning information to NGT. The third stage relates to the release of information to the wider market.
- 1.12. The publication of upstream information would also begin to bring gas markets more into line with the wholesale electricity market where there is greater transparency. There were similar debates in the electricity industry about how

¹ For example, market participants without access to certain offshore information, may react to an observed price rise by inferring incorrectly that an offshore production outage has occurred.

² “Ofgem’s probe into wholesale gas prices - Conclusions and next steps” Ofgem, October 2004.

³ “NGT price control and NTS SO incentives 2002-07: Explanatory notes to accompany the section 23 notice of proposed modifications to NGT’s Gas Transporters Licence” Ofgem, April 2002

much information should be provided to the market on the amount of generation available and on the effect of planned and unplanned maintenance on available supplies. Generators expressed similar concerns to those voiced by the producers that greater transparency could harm their commercial interests. The general view seems to be, however, that the level of transparency in the electricity market has brought the anticipated benefits and that the generators' concerns have not proved to be well-founded.

- 1.13. Appendix 2 provides a comparison of the transparency and amount of information released in the gas and electricity markets.

Structure of the document

- 1.14. The remainder of this document considers the three options identified. Chapter 2 provides further background on the voluntary information release scheme, including temporary arrangements introduced to progress information release. Chapter 3 outlines in more detail the relevant legislative background. Chapter 4 then presents possible options and, under two of the options, potential modifications to NGT's gas transporters licence.

Consultation Responses

- 1.15. If you would like to comment on the issues raised in this document, please respond (via email if possible to the address below) by 15 March 2004. Responses will be placed in the Ofgem library and on the website (www.ofgem.gov.uk) and therefore any confidential material should be included as a separate annex. Any written responses should be addressed to:

Steve Smith

Managing Director, Markets

Ofgem

9 Millbank

London

⁴ "Ofgem letter regarding summer interruptions" Ofgem, June 2003

- 1.16. Electronic responses should be sent to: ed.carter@ofgem.gov.uk
- 1.17. If you would like to discuss the issues raised in this document please contact Kevin James (020 7901 7181).

Timetable

- 1.18. Ofgem intends to publish a decision document in May 2005 after carefully considering consultation responses. If Ofgem decides to retain the existing arrangements it would also intend to issue further guidance in May 2005. If Ofgem decided to make changes to NGT's licence, it will consult on these changes in the May decision document. Ofgem would intend to implement the new arrangements from July 2005.
- 1.19. Ofgem expects to receive energywatch's Network Code modification proposal in March 2005. Ofgem will have to consider whether or not this modification proposal requires an impact assessment pursuant to section 5A of the Utilities Act 2000 (as amended by the Energy Act 2003). Given the materiality of the issue, it is likely that Ofgem will be minded to undertake an impact assessment, which should in principle mean that any Ofgem decision on this modification would be to a similar timetable to this consultation.
- 1.20. NGT has provisionally estimated that the necessary IT changes to implement real time publication of information at a sub-terminal level could be implemented by Q2/Q3 06 at the earliest. NGT has stated a possible start date to commence work on the necessary changes to enable the publication of daily flow information is contingent upon NGT completing wider changes to its so-called iGMS system. NGT explained that this is why it will only be able to publish the last phase three information in Q3 2005. On this basis, the consultation timetable should not affect the timing of publication of daily flow information if the modification is approved.
- 1.21. The existing temporary derogation is due to expire on 30 April 2005. When extended the application of the informal derogation, Ofgem noted that it intended to consult shortly on options for an enduring onshore regulatory framework that relates to the release of any offshore information provided to

NGT under the current voluntary agreement. The delay in the publication of this consultation was caused by a necessary diversion of resources to other priorities, such as the probe into movements in wholesale gas prices. Ofgem is therefore not in a position to consult upon and implement more enduring arrangements before the derogation expires.

- 1.22. Rather than set a new date for the temporary informal derogation, Ofgem proposes to link the expiry of the temporary informal derogation to the implementation of the enduring onshore regulatory arrangements for information release. If Ofgem decides not to change the current arrangements, the derogation will expire with the publication of the May decision document. If Ofgem decides to modify NGT's licence, the derogation will expire on the day that the new licence obligation comes into force, which is likely to be in July 2005.

Consultation code of practice

- 1.23. If respondents have comments or complaints about the way this consultation has been conducted these should be sent to:

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Office of Gas and Electricity Markets

9 Millbank

London

SW1P 3GE

Tel: 020 7901 7085

Michael.fews@ofgem.gov.uk

2. Background

2.1. This chapter outlines the key issues that have contributed to consideration of options discussed in the remainder of the document. It first outlines the various discussions that led to agreement to information release under the voluntary scheme. It then summarises the discussions and actions taken so far in an attempt to balance the concerns of the upstream industry regarding the commercial sensitivity of information to be published, while trying to ensure information continues to flow to NGT and sufficiently detailed information is released to the market.

Previous consideration of offshore information disclosure

2.2. There has been considerable and ongoing discussion in recent years on this issue of offshore information disclosure. As a result, Ofgem and the DTI have raised this subject in a number of consultation documents on a number of recent occasions.

2.3. In November 2001, the DTI issued a consultation entitled 'Gas: A consultation on concerns about gas prices and possible improvements to market efficiency'. The document included a discussion on the need for improvements to information flows upstream and between offshore and onshore markets. The document noted that, subject to a regulatory impact assessment, the DTI would consider introducing either a voluntary or, if necessary, statutory framework to improve information disclosure.

2.4. Also, as part of Transco's System Operator final proposals⁵, Ofgem introduced a new draft licence condition (paragraph 5 of SLC4E), which placed an obligation on NGT to release information to be specified in the Network Code. Therefore, this explicitly provided for third parties to raise Network Code modifications in relation to the release of information.

⁵ "Transco price control and NTS SO incentives 2002-07: Explanatory notes to accompany the section 23 notice of proposed modifications to Transco's Gas Transporters Licence" Ofgem, April 2002

June 2003 gas supply interruptions

- 2.5. The support for the disclosure of offshore information was heightened by a subsequent review of the June 2003 gas interruptions where, as a result of supply deficits in the south, NGT took an unprecedented number of actions to initiate interruptions of supply points (with interruptible transportation contracts) on the National Transmission System (NTS) and Local Distribution Zone (LDZ). There have also been other incidents when system conditions have almost resulted in further interruptions and / or high cost balancing actions by NGT. The subsequent review that surrounded the interruptions indicated that, among other contributing factors, the lack of information flows between offshore and onshore gas sectors contributed towards the shortfalls of gas on the system.
- 2.6. In light of the review to the summer 2003 interruptions and since then, work has been undertaken by the Department of Trade and Industry in consultation with Ofgem, UKOOA, terminal operators and NGT to consider the effectiveness of communications and information release between the offshore and onshore gas industries. During these discussions, Ofgem indicated a preference for a legislative route to disclosing offshore information, but supported the DTI in seeking a voluntary arrangement for the disclosure of offshore information as a means to progress the issue.

Development of the voluntary scheme

- 2.7. The development of the voluntary scheme has been split into three phases. On 11 November 2003, a standardised (albeit voluntary) framework was put in place, in the first phase, to improve and standardise information provided to NGT on gas flows, and planned and unplanned outages. It was also agreed that in the event of a potential gas emergency, NGT will request that the DTI obtain maximum deliverability information from offshore participants on NGT's behalf. Phase two seeks the disclosure of operational and planning information to NGT, which it uses for long-term planning purposes and also for information published in its 'Ten Year Statement'⁶.

⁶ The Ten Year statement is published by NGT under the title "Transporting Britain's Energy"

- 2.8. In addition to the agreement in 2003, in March 2004, 19 companies representing over 95% of UKCS gas production gave the then Energy Minister, Stephen Timms, their commitment to participate in the new voluntary arrangements to increase participation in NGT's annual analysis of the ten year outlook for gas supply, published in the "Transporting Britain's Energy" report and agreed, subject to confidentiality measures, to the wider release of aggregated information⁷.
- 2.9. The release of information to the market is the third and final phase intended under the voluntary scheme and is split into four categories of information. Table 2.1 outlines the basis and timing of the publication of the different categories of offshore information.

Table 2.1: Phase three information and timing

INFORMATION CATEGORY	TIMING, AGGREGATION	PUBLICATION: timing and location
1. Real-time flows into the NTS	As close to real-time as feasible Aggregation on national and zonal ⁸	Q3 05 (real time flows).
2. Forecast flows into the NTS	Ahead of day Updated hourly through the day Aggregation on national and zonal basis	Q1 05 (forecast flows)
3. Deliverability, reflecting planned maintenance	Ahead of time Quarterly, with material updates as they become known to NGT Aggregation on national and zonal	Q4 04 (D + 1 gas flows and maintenance data),
4. Daily flows into the NTS	Daily at 16.00 hours on D + 1 Information by sub-terminal	Q4 04 (D + 1 gas flows and maintenance data),

⁷ In this document, we refer mostly to UK offshore producers as discussions to progress the voluntary scheme have naturally mainly occurred with those parties. Nevertheless, Norwegian and offshore storage operators have provided in principle commitment to the provision of information. Therefore lack of explicit reference to other upstream market participants in this document is not intended to reflect or assume non-cooperation or otherwise.

⁸ 2 zones, "north" and "south", north comprising St Fergus, Barrow, Teesside, Burton Point, Partington and Glenmavis, south comprising Easington (including Rough), Theddlethorpe, Bacton, Isle of Grain, Dynevor, Avonmouth and Hornsea.

- 2.10. Phases one and two are now fully operational and NGT began publishing, on 1 October 2004⁹, the first phase three information (categories 3 and 4) relating to deliverability (reflecting planned maintenance) and end-day flows onto the NTS by sub-terminal respectively. Category 4 information was information that was already available to NGT registered shippers. NGT has currently committed to the publication of forecast flow data in Q1 05 and Q3 05 for real time flows.
- 2.11. Nevertheless, Ofgem has continued to note that the levels of information to be released to the market under the voluntary scheme fall somewhat short of the information available in the electricity market. In particular, regular information on planned and unplanned maintenance at individual generation stations is available to market participants, as set out in Appendix 2.
- 2.12. There are differences in the trading arrangements in gas and electricity markets. However, putting aside these differences in the arrangements, the comparison with the electricity market appears to be relevant because a number of participants have expressed their opinion that the levels of information available in the electricity market work, in aggregate, to provide market participants with greater transparency. Therefore, a number of market participants have expressed the view that the levels of information in electricity markets give them a more informed basis for trading and operation.

Commercial sensitivity and confidentiality concerns

- 2.13. The progress throughout this voluntary agreement has depended on the relevant parties having confidence that their concerns regarding information not being made available more widely are kept. In particular, UKOOA had expressed concerns that confidential information on individual fields, which producers provide to NGT for its Ten Year Statement, could be made available to all market participants by virtue of condition 4E of NGT's GT licence.

⁹ <http://info.transco.co.uk/>

Condition 4E of Transco's gas transporters licence

- 2.14. Paragraph 5 of SLC4E was introduced in April 2002 and requires NGT to comply with any obligation in its Network Code to disclose information relating to the operation of NGT's pipeline system or any market relating to the licensee's pipeline system. The explanatory notes accompanying the proposed section 5 of Condition 4E licence changes clearly envisaged that information from offshore companies could fall within the scope of the licence condition.
- 2.15. The condition was introduced recognising the importance of information release and the Network Code governance arrangements providing an appropriate means for market participants to raise and consider in detail what information is considered necessary for efficient market operation¹⁰. As explained in chapter 3, section 105 of the Utilities Act could have prevented NGT from disclosing certain information, although section 105 provides for disclosure of information under certain gateways, including where NGT is required by a condition of its licence. Therefore, it was necessary to introduce the licence condition so that the Network Code could be used as the basis for considering information disclosure and so that section 105 could not potentially prevent information from being released.
- 2.16. Given the requirements of SLC4E, offshore parties were concerned that information they passed to NGT would then be released to the wider market. In order to facilitate the disclosure of phase two information, UKOOA proposed that NGT sign an agreement with offshore participants to address issues of confidentiality and liability. The proposed agreement contained a provision that should a modification be proposed to NGT's Network Code which required the disclosure of information protected by the agreement, the offshore information covered by this agreement could be recalled by the producers, or destroyed by NGT on request of the producers.
- 2.17. While Ofgem supported the process of disclosing offshore information and welcomed the progress that has been made, it considered that the confidentiality agreement being proposed between NGT and the producers could give rise to a

¹⁰ This also made the governance arrangements in relation to consideration of information release in gas

breach of NGT's Gas Transporters (GT) licence. Given Ofgem's views, NGT had made it clear that it could not sign such an agreement if such an action could later potentially place them in breach of their GT licence (e.g. when a modification proposal to its Network Code was raised and approved by Ofgem).

2.18. UKOOA therefore sought assurances from Ofgem that information provided to NGT on a confidential basis would not be disclosed to the wider market. In particular, it was concerned that shippers and designated third parties could raise a Network Code modification proposal to disclose information that had been provided to NGT relating to individual commercial positions.

2.19. Ofgem had previously published explanatory notes to the information provision licence condition in April 2002¹¹, giving guidance on the criteria it would use to determine whether to approve a Network Code modification requiring the disclosure of information. In particular, Ofgem noted that in deciding whether to implement a Network Code modification, consideration would need to be given as to whether the proposal better facilitates the relevant objectives of NGT's Network Code. Ofgem considered that a proposal which required NGT to breach confidentiality obligations it had signed with parties to its Network Code and/or was likely to result in such third parties withholding information provided to NGT on a voluntary basis would be unlikely to fulfil that criterion. Ofgem noted that the Network Code modifications process would provide respondents with the opportunity to raise and consider such concerns.

Comfort letter to industry

2.20. During the development of the voluntary arrangements, in a letter of 23 October 2003¹², Ofgem offered further clarification of the circumstances under which the licence condition could be used. In this comfort letter, Ofgem noted that a modification requiring NGT to publish information provided to it on a confidential basis was unlikely to better facilitate the achievement of the relevant objectives: "... ***if it could be demonstrated*** [emphasis added] that acceptance

similar to those adopted for the Balancing and Settlement Code in electricity.

¹¹ "NGT Price Control and SO incentives 2002-7, Explanatory notes to accompany the section 23 notice of proposed modifications to NGT's gas transporters licence" Ofgem, April 2002.

¹² "The disclosure of offshore information" Ofgem open letter, 23 October 2003.

of such a proposal threatened the continued provision of such information to NGT or if it placed NGT in breach of pre-existing confidentiality obligations”.

- 2.21. This comfort letter also noted that, in general, the disclosure of ex ante information (e.g. forecast information published prior to real time) under the voluntary scheme should be at a level of aggregation which does not disclose an individual participant’s commercial positions. Ofgem agreed to formally seek the DTI’s views on any modification proposal relating to the disclosure of potentially confidential information by NGT to the industry prior to reaching any decision.
- 2.22. Therefore, the comfort letter suggested that confidentiality and commercial sensitivity concerns (where these could be demonstrated) were a relevant consideration for Ofgem to take into account when considering a Network Code modification proposal. The comfort letter noted, however, in relation to any Network Code modification proposal, that it was clear that Ofgem could not fetter its discretion with regard to any prospective modification proposal.
- 2.23. UKOOA welcomed the clarification that this letter brought. However, UKOOA sought unequivocal commitment from Ofgem that it would not approve a Network Code modification proposal to disclose field specific information that producers had agreed to pass to NGT under phase two. Without this commitment from Ofgem, UKOOA was of the view that it would be unable to agree to the voluntary disclosure of phase two information.

Temporary informal derogation

- 2.24. In order to facilitate further progression with the voluntary agreement, Ofgem had considered consulting on a formal amendment to condition 4E of NGT’s GT licence. The amendment, if made, would have allowed NGT to enter into the proposed agreements without risk of licence breach. However, the process required formal consultation and a licence amendment would have taken several months. Facilitating the release of more information to NGT quickly was considered important both for security of supply and facilitating competition in the gas market.

- 2.25. Ofgem therefore launched a short consultation on 23 March 2004¹³ as to whether to issue a temporary derogation to paragraph 5 of amended standard condition 4E of NGT's GT licence. Ofgem made clear in the consultation letter that the proposed derogation could only be granted on an informal basis as there is no statutory basis or basis in the licence to enable the grant of any formal derogation or direction.
- 2.26. Ofgem proposed that the derogation, which relates to phase two¹⁴ of the voluntary framework, would preclude NGT from complying with Network Code modifications to disclose information arising from the "Transporting Britain's Energy" (TBE)¹⁵ process which could potentially reveal an individual participant's commercial position with respect to field specific information. Further, the derogation would expire six months from the date of grant, namely 31 October 2004. In this time, Ofgem intended to formally consult on whether Condition 4E should be amended. Ofgem noted that the grant of any such temporary derogation would be entirely without prejudice to any later statutory consultation on amendment to Condition 4E of NGT's GT licence.
- 2.27. Having considered the responses, on 15 April 2004, Ofgem issued a temporary derogation with respect to paragraph 5 of standard condition 4E of NGT's GT licence, effective until the end of October 2004. The derogation was issued on an informal basis as there is currently no statutory basis or basis in licence to enable the granting of any formal derogation or direction. The informal derogation was therefore without any prejudice to any later statutory consultation on amendment to Condition 4E of NGT's GT licence.
- 2.28. In granting the derogation, Ofgem expected UKOOA and NGT to be in a position to agree to the voluntary disclosure of phase two information immediately thereafter, in particular, to sign the confidentiality agreement that had been proposed.

¹³ "Access to offshore information: Consultation on a possible derogation to Standard Condition 4E of NGT's Gas transporters Licence" Ofgem, March 2004

¹⁴ Phase 2 allows information to be provided to NGT from offshore participants for the purposes of publishing the Ten Year Statement.

¹⁵ The TBE process is NGT's annual round of long term planning and forecasts, which are published in its Ten Year Statement under this title. As part of this process, NGT collects data, estimates and forecasts network investment needs and security of supply issues, taking into account demand and supply situation, including upstream capability.

Extension to the temporary informal derogation

- 2.29. On 14 October, Ofgem issued a letter further extending the temporary informal derogation until 30 April 2005 to enable information to continue to flow under the voluntary scheme pending the results of this consultation.
- 2.30. In the letter Ofgem explained that its decision to extend the informal derogation remains a temporary measure and that it is certainly not the intention to continue extending the informal derogation indefinitely. In letter of the 14 October, Ofgem explained that depending on the timing and results of our consultation and the nature of the final decision, the temporary information derogation may be withdrawn and/or replaced with an enduring regulatory framework before 30 April 2004.

Modification proposal 727

- 2.31. On 3 November 2004, energywatch raised a non-urgent Network Code modification proposal 727 "Publication of Near Real Time Data at UK sub-terminals". This modification proposal seeks to require NGT to publish real time flow data for each sub-terminal for the purposes of informing third parties via the NGT website. This would include all entry points that are owned and/or operated by NGT (i.e. storage entry points operated as part of the gas transportation system that are currently subject to price control regulation); entry points which are capable (aggregating all relevant sub terminals deliveries) of accepting gas flows at rates greater than 10 mcm per day; and all individual sub terminals which are capable of accepting gas flows greater than 10 mcm per day. It is further proposed that flows are updated on a real time basis. Therefore, the energywatch modification proposal relates only to category one information. The main difference in comparison with phase three information is the level of disaggregation envisaged in table 2.2.

Table 2.2 : Comparison of information release against existing proposals

	Phase three (category 1) proposals	energywatch proposals
Timing	Physical flows into NTS (near real time)	Physical flows into NTS (near real time)
Aggregation level	(North – South – National Aggregation)	All NGT entry points to NTS, Data for large sub-terminal (> 10mcm delivery capability), Aggregated for sub-terminals (< 10mcm).

2.32. It should be noted that this modification proposal is still in its assessment phase and Ofgem has yet to receive the final modification report for consideration. The proposal nevertheless indicates that certain consumers consider that levels of information to be provided under the existing voluntary scheme are insufficient.

3. Legal Framework and Guidance

- 3.1. This chapter outlines the onshore regulatory regime potentially relevant to information disclosure and the relevant sections of the GT licence under consideration as well as the temporary derogation that has been issued in response to concerns that the market could gain access to the offshore information provided to NGT under the voluntary scheme.

Regulatory regime

Gas Act 1986

- 3.2. The Gas Act 1986, as amended by the Utilities Act 2000, provides for the regulation of the onshore gas regime in Great Britain and for the separate licensing of gas transporters, gas shippers and gas suppliers. NGT is the largest gas transporter in Great Britain.
- 3.3. Section 4AA of the Gas Act 1986 sets out the principal objective and general duties of the Gas and Electricity Markets Authority (the Authority) in respect of gas. The principal objective of the Authority in carrying out its functions under the Gas Act 1986 is to protect the interests of consumers in relation to gas conveyed through pipes, wherever appropriate, by promoting effective competition between those engaged or concerned with the shipping, transportation or supply of gas or engaged in commercial activities relating to such activities. In carrying out its functions under the Gas Act 1986 in a manner which furthers the principal objective, the Authority will have regard to the following:
- ◆ the need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met, and
 - ◆ the need to secure that licence holders are able to finance the carrying on of the activities which they are authorised or required by their licences to carry on.

- 3.4. The Authority must carry out its functions in the manner it considers best calculated to:
- ◆ promote efficiency and economy on the part of authorised persons and the efficient use of gas
 - ◆ protect the public from dangers arising from the conveyance of gas through pipes or the use of such gas, and
 - ◆ secure a diverse and viable long term energy supply.
- 3.5. The Authority must also have regard to the effect on the environment of activities connected with the conveyance of gas through pipes.

Utilities Act 2000

- 3.6. Section 1 of the Utilities Act 2000 created the Authority.
- 3.7. The Utilities Act 2000 amended the Gas Act 1986 in a number of significant ways. The Utilities Act 2000 gave the Authority new duties (as outlined above) and functions in relation to licensing and setting performance standards. The Utilities Act 2000 also gave the Authority the power to impose financial penalties on companies found to be breaching, or to have been in breach of, licences issued to them under the Gas Act 1986 or Electricity Act 1989.
- 3.8. Section 105 of the Utilities Act sets out general restrictions on the disclosure of information. These restrictions apply to any person who obtains information pursuant to, among other things, the Gas Act. It is considered that this restriction therefore is capable of applying not only to Ofgem, but also to NGT and other market participants.
- 3.9. Broadly, section 105 provides that such a person is not able to disclose the relevant information, except through certain gateways (for example where consent of the relevant party to disclose is given and in relation to a licensee where disclosure is required to be made by a condition of its licence). Disclosure in breach of the prohibition is a criminal offence.

Ofgem's duties in relation to publication of information

- 3.10. Ofgem has the ability to publish information under section 35 Gas Act 1986 in such manner as the Authority may determine, provided that:
- ◆ it appears to the Authority that publication would "promote the interests of consumers in relation to gas conveyed through pipes",
 - ◆ Ofgem consults any individual or body of persons to which the information in question relates, and
 - ◆ Ofgem has regard to the need for excluding, so far as practicable, any matter relating to the affairs of a particular individual or body of persons where publication would or might, in the opinion of the Authority, "seriously and prejudicially affect the interests" of that individual or body.

NGT's gas transporters licence

GT licence condition requirements

Condition 9 – Network Code

- 3.11. Under amended standard condition 9 of the GT licence, a GT is required to establish transportation arrangements that should achieve a number of objectives related, amongst other things, to ensuring the efficient and economic operation of its pipeline system, the efficient discharge of licence obligations and the securing of effective competition between relevant shippers and relevant suppliers.
- 3.12. In addition, a GT is required to prepare a Network Code setting out the terms of its transportation arrangements as well as procedures, known as modification rules, for the modification of its Network Code. In the case of NGT, its Network Code is given contractual force between NGT and each shipper through the Network Code Framework Agreement. This agreement is signed by NGT and each shipper that is a party to NGT's Network Code.

Condition 4E – Requirement to enter into transportation arrangements in conformity with Network Code

- 3.13. In April 2002, following a licence amendment, paragraph 5 was added to NGT's Gas Transporters Licence, Standard Condition 4E. This placed a requirement, additional to the matters already covered by standard condition 4E, to comply with any Network Code obligation to provide relevant information to market. Paragraph 5 of condition 4E states that the licensee shall comply with any obligation in the Network Code to disclose information relating to:
- (i) the operation of the licensee's pipe-line system, or
 - (ii) any market relating to the licensee's pipe-line system.
- 3.14. The licence condition therefore requires NGT to comply with Network Code obligations relating to a potentially wide range of information. On this basis, to accompany the introduction of the licence change, Ofgem set out guidance on the information that could be included. This is discussed further in the following section.
- 3.15. The amendment to SLC4E was considered desirable because the release of information was seen as necessary to support the changes to NGT's System Operation incentives and to promote efficient market operation and to facilitate competition. Following consultation it was considered desirable that the basis for considering requirements on NGT to release information should be via the Network Code governance arrangements. This would also make the governance arrangements in relation to consideration of information release in gas similar to those adopted for the Balancing and Settlement Code in electricity.
- 3.16. Without the licence amendment, the general restrictions on the disclosure of information explained above in relation to NGT's section 105 duties could have prevented it from releasing that information. On the other hand, section 105 provides for NGT to be able to release information to market where it is this is a requirement of its licence. On this basis, a specific licence condition was necessary.

Guidance on Information release

- 3.17. In April 2002¹⁶, Ofgem provided guidance on the information considered to be specified in the Network Code to be provided by NGT. The guidance noted that this would include (but need not be limited to) the disclosure of the information with indicative data provided ahead of a gas day and actual data provided during the day on balancing information; entry capacity market information to be provided during the day; and exit capacity market information.
- 3.18. With respect to this information, the guidance noted that NGT could provide updates of relevant information at regular intervals (for example, on an hourly basis through the day) but that it was for parties to the Network Code to develop the details of the information to be released, including the timing of its release, through proposed modifications to the Network Code. It was clearly envisaged that information from offshore companies could fall within the scope of the licence condition.
- 3.19. Hence, in addition to other information, the licence condition was intended to enable market participants to raise Network Code modifications that could require NGT to release information provided to it by offshore producers to the market. This was in order to place the initiative for identifying and discussing the type of information required with industry through the Network Code governance process.

Informal derogation letter

- 3.20. As stated previously, UKOOA requested that a confidentiality agreement between gas producers and NGT be signed to protect the disclosure to the wider market of operational and planning information used by NGT for long term planning purposes. Ofgem considered however that the confidentiality agreement being proposed between NGT and the producers could give rise to a breach of NGT's GT licence. Ofgem wrote to shippers, NGT and other interested parties in a short open consultation on whether to issue a temporary

¹⁶ "Transco Price Control and SO incentives 2002-7, Explanatory notes to accompany the section 23 notice of proposed modifications to NGT's gas transporters licence" Ofgem, April 2002.

derogation to section 5 of standard condition 4E of NGT's GT licence in relation to certain information.

- 3.21. Following consideration of consultation views and issues, on 15 April 2004 Ofgem issued NGT with a 6 month derogation with respect to paragraph 5 of standard condition 4E in NGT's GT Licence. The derogation relates specifically to field information collected by NGT for the purposes of producing its long term planning and forecasts, under the TBE process previously referred to in chapter 2, and was issued to facilitate phase 2 of the voluntary arrangements for offshore information disclosure, by enabling NGT to enter into a confidentiality agreement with gas producers without the risk of breaching its GT licence.
- 3.22. There is no statutory basis or basis in the licence that enables Ofgem to grant any formal derogation or direction and as such was informally issued without prejudice to any later statutory consultation on amendments to Condition 4E of NGT's GT licence. In its decision the Authority stated that the derogation would elapse in six months, within which Ofgem would expect to issue a formal consultation on whether Condition 4E should be amended.
- 3.23. Ofgem has since extended the derogation until 30 April 2005. Ofgem noted that the grant of the temporary derogation was without prejudice to the conclusions of this consultation. Depending on the timing and results of our consultation and the nature of the final decision, the temporary derogation may be withdrawn and/or replaced by an enduring regulatory framework before 30 April 2005.

4. Consultation on options

- 4.1. This chapter considers the options in relation to, amongst other things, possible modifications to NGT's GT licence conditions to progress offshore information release. In particular, this covers options to ensure information continues to flow to NGT for operational and planning purposes and, at the same time, subject to appropriate consideration of commercial sensitivity concerns, that the maximum amount of information necessary can flow to the market.

Licence amendment options

- 4.2. Ofgem has identified three possible options in relation to the GT licence in order to address specific concerns regarding the release to the market of offshore information provided to NGT. In each case it is expected that the temporary informal derogation will lapse. The options are:

- ◆ retain paragraph 5 requirements while providing further guidance on the treatment of potentially confidential commercially sensitive information
- ◆ introduce a power in the licence for Ofgem to be able to provide NGT with derogations from certain information being disclosed, or
- ◆ amend the licence to specify what information that could be required by a Network Code modification to be published.

- 4.3. The details of these options are considered in turn below together with an assessment of the relative merits and risks associated with each of the options.

Option 1: Retain licence condition requirements

- 4.4. Under this option, paragraph 5 of Condition 4E would be retained within the GT licence and the temporary informal derogation would be withdrawn. NGT would then be obliged by its licence to release information specified in the Network Code.

- 4.5. Under this option, Ofgem's intention would be to issue further guidance on how it would consider any future Network Code modification proposal on further release of offshore information.
- 4.6. This guidance would clarify and expand upon (thereby replacing) the existing comfort letter and the explanatory notes issued with the licence condition in April 2002. It is expected that such guidance would include an appropriate test upon any Network Code modification in this area to ensure proper account is taken of any commercial sensitivities in relation to the disclosure of offshore information, for example whether there would be a serious and prejudicial effect on their commercial position arising from the release of information.
- 4.7. In particular, Ofgem would anticipate that in considering whether a proposed modification to the Network Code better facilitated the relevant objectives, it would apply a similar threshold as the threshold applied to Ofgem under Section 35 of the Gas Act as discussed in chapter 3. This considers whether the release of information in the opinion of the Authority, would "seriously and prejudicially affect the interests" of offshore producers.
- 4.8. Ofgem would publish this guidance as part of its decision document and would anticipate that the guidance would note that, in addition to the above, Ofgem would not ordinarily expect to approve a Network Code modification proposal in relation to the publication of information where publication of that information would or might, in the opinion of Ofgem, seriously and prejudicially affect the interests of particular market participants.
- 4.9. This guidance would note, however, that if Ofgem considered such concerns were not demonstrated, then claims of commercial sensitivity or confidentiality should not be a legitimate factor to prevent the possible approval of the Network Code modification. The guidance would also need to note that Ofgem could not fetter its discretion in relation to the consideration of any potential Network Code modification, namely against the relevant objectives of the Network Code and to ensure consistency of any proposal with Ofgem's statutory duties.
- 4.10. In summary, option one would leave the licence condition unchanged but would seek to provide more clarity as to the issue of commercially sensitive information and the handling of Network Code modifications.

- 4.11. Under changes to the current regulatory framework introduced by the Energy Act 2004, from April 2005 decisions taken to approve or reject Network Code modifications will shortly be capable of appeal to the Competition Commission. This would provide some further comfort to producers under this option as they would have a further right of appeal in the event that Ofgem did approve a modification requiring the release of more information.

Option 2: Formalise ability of the Authority to derogate

- 4.12. Under this option, the licence would be amended to give the Authority a formal power to provide for derogation from certain information being disclosed. The derogation would, by its very nature, specify the information that would not be required to be released and Ofgem would need to take a decision regarding the levels and detail of information provided. Once the derogation had been issued, NGT would not be required by its licence to comply with requests from shippers and customers to release more detailed information for those areas where the derogation applied. The starting assumption would be that the formal derogation would at least be based upon the current levels of information planned to be released under phase three of the voluntary scheme (chapter 2, table 2.1).
- 4.13. The wording of the derogation could be formulated to provide some flexibility and the derogation could be time-bound so that Ofgem could take into account market developments over time. For example, in future, the addition of new import sources (at potentially new entry points to the GB gas transportation system) will change the overall distribution of supply sources. This could, in principle, justify information being presented at a lower level of disaggregation or on a different basis. Therefore, given the expectation of evolving market arrangements, it could be possible for the derogation to be kept under review and for Ofgem to consult on possible future amendments to the derogation at that time.

Option 3: Specify information in the licence

- 4.14. This third option would specify in the licence particular categories of information that should be subject to disclosure and the associated levels of

disaggregation. Therefore, the licence would be amended to limit the information which the Network Code could provide for disclosure of. Option three has the same intended outcome as option two, namely to give some certainty to producers that where information is passed to NGT that is commercially confidential, NGT is not subsequently required by a Network Code modification to release that information to the market.

Assessment of the three options

Potential costs and benefits

- 4.15. Annex 1 includes an impact assessment (IA) that looks in more detail at the potential costs and benefits that might flow under the different options. In summary, and as explained in the impact assessment, it is difficult to conduct this analysis without making an assessment of the likelihood of certain events, such as whether or not the voluntary scheme continues and therefore whether the information passed to NGT could be given to the wider market under the different options. Therefore, the analysis in the IA has focussed more on presenting the benefits of increased information flows and some of the potential costs associated with compliance with increased information release requirements.
- 4.16. The IA presents the possible costs and benefits associated with information that could potentially flow under the different options (without considering the risks and probabilities of these outcomes). The estimated magnitude of the benefits of increased information to the market could potentially amount to over £265 million per annum, which appears to far outweigh the costs, which largely relate to NGT's IT systems (NGT estimates £135,000 for finalising phase three information and a further £600,000 to be incurred to enable detailed real-time flow information to be published) along the lines envisaged by the energywatch proposals. For detailed real-time flow information there would also be ongoing costs of around £85,000 per annum.
- 4.17. However, the analysis necessary to conduct a full IA is more complex than simply comparing the costs and benefits that might accrue if full information is released to the market. As discussed in the IA, in considering information flows

under the different options there has not been any analysis of the incremental benefits of increased information flows over and above phase three information. It is difficult to quantify the impact of increased information release on potentially commercially sensitive information. Finally, it is difficult to assess in overall welfare terms the relative balance of costs and benefits between downstream and upstream players. There may be commercial costs to producers from the loss of private information, but some of the value of this information may simply transfer to consumers as a benefit as they are now able to trade on the basis of that information.

- 4.18. Importantly, it is not possible at this stage to analyse the levels of information that might potentially flow under option one. First, even if option one were to be introduced, there is no certainty that further Network Code modification proposals would be either raised and/or subsequently approved that required NGT to release more detailed levels of offshore information. This would depend on market participants initially raising the modification proposal and for the proposal to then undergo an assessment by Ofgem as to whether it better facilitated achievement of the relevant Network Code objectives and was consistent with Ofgem's own statutory duties.
- 4.19. In addition, the reaction of offshore producers is uncertain and depends on judgements regarding the level of comfort that any guidance Ofgem issued could give to offshore producers. Therefore, the IA's main conclusions relate to quantifying the main costs and benefits associated with information flows. This at the very least highlights that the benefits of increased information flows justify consideration of the options rather than risking taking no further action in relation to SLC4E, which would potentially result in the withdrawal of producers from the voluntary scheme.
- 4.20. Therefore, Ofgem is yet to settle on either of the above options as the merits of either option depends which of these provides the most appropriate mechanism to enable both:
- ◆ sufficiently detailed information to flow to market (which has clear benefits as set out in the IA), and

- ◆ information to continue to be released to NGT under the voluntary scheme.

4.21. The above two issues have clear interactions as detailed information can only be released by NGT to the market if this information has been provided to NGT in the first place. Offshore producers have indicated that they will continue to participate in the voluntary scheme provided they remain satisfied that commercial confidentiality issues can be addressed. Hence the confidentiality agreements they have sought to sign with NGT for certain information.

Commercial confidentiality and information release

- 4.22. As mentioned above, under option two or three, Ofgem's preliminary assumption is that the information released to market would be based upon the current levels of information released under phase three of the voluntary scheme. Given that producers have, to date, accepted publication of information at this level of detail, the expectation would be that information would continue to flow to NGT and to be released to the market.
- 4.23. If, on the other hand, the responses to this consultation indicate that the levels of information to be published under phase three are insufficient, then it is more important to consider which of these options provides the most appropriate means to consider and enable NGT to release more detailed information.
- 4.24. The way in which Ofgem takes into account commercial confidentiality concerns, in considering increased information release, is at the heart of this issue. The voluntary nature of the information release scheme makes the issue more complicated if a party is concerned, on commercial confidentiality grounds, that information provided to NGT would be released to market. In these circumstances there is always a risk that the party may decide to withdraw from the voluntary scheme and cease to provide further information to NGT. This risk of withdrawal from the voluntary scheme was reflected in the "return or destroy" provisions that producers specified in their agreement with NGT over the provision of certain information.

Governance issues

- 4.25. Ofgem considers that commercial confidentiality issues are a legitimate issue to be considered. However, Ofgem needs to have some objective basis for considering these commercial confidentiality concerns (i.e. these concerns cannot simply be accepted on face value). Therefore Ofgem considers it appropriate to provide further guidance as to how commercial confidentiality concerns will be addressed.
- 4.26. Options two and three would tend to require Ofgem to settle on an initial position in the derogation and/or licence on the levels of information to be published. A difference between these options and option one is that, once the derogation has been granted, the initiative for amending the derogation would lie with Ofgem rather than market participants, as this power would sit with Ofgem. For option three, the ability to change the arrangements would relate to the rights under the Gas Act to initiate licence changes, which would be subject to consent of the licensee. Whereas, under option one, the right of initiative would lie with market participants through Network Code governance arrangements.
- 4.27. For option two, there are some outstanding questions to resolve in relation to how the derogation would operate. It has been assumed that the derogation will be granted in advance setting out information NGT would not be required to publish. However, it is arguable whether a derogation can properly be granted in respect of an obligation which does not exist. On the other hand, if a derogation can only be granted where a specific obligation exists, then this suggests that a Network Code modification would have had to have been directed by the Authority.
- 4.28. This highlights a potential conflict, as the Authority's basis for directing a Network Code modification is that it meets the Network Code relevant objectives and with regard to Ofgem's principle objective and general duties. If an information release proposal meets those objectives, then it would then be difficult for Ofgem to consider introducing a derogation having regard to its statutory duties as this would be inconsistent with Ofgem's earlier decision. The intent of this option is certainly not to allow such inconsistencies to arise.

On this basis, further consequential amendments may need to be made to the licences in order to link any decision regarding a potential Network Code modification to the content of the derogation. On this basis, option three may be more appropriate.

- 4.29. A further problem in relation to including a derogation from the licence condition requiring NGT to disclose the relevant information is that even if the derogation is granted, NGT remains contractually required by the Network Code Framework Agreement to disclose the information. One solution would be to amend the licence to enable the Authority to grant derogations for requirements of the Network Code and to amend condition 4E of NGT 's licence so that NGT would have to comply with any Network Code modification requiring the disclosure of information subject to any derogations. Nevertheless, under these arrangements, there would still remain the potential conflict described in paragraph 4.28 above.
- 4.30. In addition to this issue, there is an issue about the flexibility of the different options to be able to take into account future developments. Network Code governance arrangements would provide industry participants with the opportunity to discuss information release, prior to a modification proposal reaching Ofgem. Under options two and three, it would be likely that Ofgem would have to consult before revising the derogation and/or licence, so there would be some opportunity for views to be represented. However, the Network Code governance arrangements may provide a better route for industry to discuss views and to arrive at a final proposal prior to the modification proposal being passed to Ofgem for consideration. Furthermore, as a result of the Energy Act 2004, market participants will be able to appeal Ofgem decisions relating to Network Code modification proposals to the Competition Commission from April 2005. In addition, a Network Code modification could be enacted more quickly, reducing regulatory costs, and also enabling any benefits of increased transparency to be realised sooner.
- 4.31. The greater the weight attached to more flexible governance arrangements in order to assess information disclosure may suggest that opting for option one rather than option two or three is appropriate. If however it is likely that levels of information to be published under phase three of the voluntary scheme will

be sufficient to meet shippers and customers' calls for greater transparency then this perhaps points to opting for option two or three. Ofgem notes however in this respect that energywatch has already raised a Network Code modification proposal calling for increased information release.

5. Views invited

- 5.1. Ofgem considers it is important that, subject to consideration of possible costs and constraints, any changes to the onshore regulatory arrangements result in the maximum level of offshore information considered necessary to be released to the market and that enables the continued flow of operational and planning information to NGT.
- 5.2. Views are invited by 15 March 2005 in relation to any of the issues raised in this document, in particular in relation to the proposed options. In order to provide an objective basis for considering these options, Ofgem would also welcome responses to cover the following issues:
- ◆ the levels of transparency and information flows considered necessary for efficient and competitive gas market operation
 - ◆ commercial confidentiality issues, whether it is possible to further explain and substantiate these concerns, and
 - ◆ possible benefits and costs associated with different options.

Electronic responses should be sent to: ed.carter@ofgem.gov.uk

Appendix 1: Draft impact assessment

Introduction

1.1 Ofgem is required to carry out impact assessments (IAs) under section 5A of the Utilities Act 2000, as amended by the Sustainable Energy Act 2003. Section 5A requires that the Ofgem carries out IAs:

- ◆ whenever it proposes to do anything for the purposes of, or in connection with, the carrying out of any function exercisable by it under or by virtue of Part 1 of either the Electricity Act or the Gas Act, and
- ◆ it appears to Ofgem that the proposal is important.

1.2 Section 5A defines a proposal as important where its implementation would be likely to lead to one or more of the following:

- ◆ involve a major change in the activities carried out by the Authority
- ◆ have a significant impact on market participants in the gas or electricity sectors
- ◆ have a significant impact on the general public of Great Britain or part of Great Britain, or
- ◆ have significant effects on the environment.

1.3 As set out in this consultation document, Ofgem has presented three options. Ofgem considers that the proposals set out in this consultation warrant an IA because of the materiality of the associated benefits in terms of increased information release. The IA has been developed against the background of Ofgem's principle objective and statutory duties. In this IA Ofgem has considered a base case scenario (i.e. option one to leave the existing arrangements in place) against the alternative options based on the assumed levels of information that would be released to the market under the different options.

- 1.4 Where appropriate the costs and benefits of the initial proposals are quantified although it should be recognised that this is not always practicable. That is, it may be difficult to quantify some costs and benefits accurately, especially where the benefits may accrue over a number of years. In addition, for this IA, the consideration of the costs and benefits that accrue result from a judgement over relative risks or probability of certain outcomes.
- 1.5 For the time being Ofgem does not propose to attempt to quantify those risks and probabilities, therefore the analysis presented only tries to quantify the benefits and costs individually for different levels of information flows. But because the risks and probabilities have not been quantified, it is not possible to calculate for each option whether the benefits outweigh the costs or which of the options is preferred.
- 1.6 Ofgem would welcome comments from interested parties on the costs, benefits and risks associated with the options considered in this IA.

Policy objectives

- 1.7 In carrying out its functions, the Authority must have regard to its principal objective, as set out in Section 4AA of the Gas Act, “to protect the interests of consumers in relation to gas conveyed through pipes, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas”. Consumers for these purposes include both existing and future consumers.

Other Gas Act obligations

- 1.8 In addition to its principal objective, amongst other things, the Authority must carry out its functions in the manner it considers to be calculated:
- ◆ to promote efficiency and economy on the part of licence holders to carry on any activity and the efficient use of gas conveyed through pipes (section 4AA(5)(a))
 - ◆ to protect the public from dangers arising from the conveyance of gas through pipes or the use of such gas (section 4AA(5)(b))

- ◆ to contribute to the achievement of sustainable development (section 4AA(5)(a)), and
 - ◆ to secure a diverse and viable long-term energy supply (section 4AA(5)(c)).
- 1.9 In carrying out its functions in accordance with the above the Authority must, amongst other things, have regard to:
- ◆ the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed (section 5A(a)), and
 - ◆ any other principles appearing to the Authority to represent the best regulatory practice (section 5A(b)).
- 1.10 The Authority is also required to bear in mind when developing policy proposals that any such proposals should be consistent with European Union gas legislation on, amongst other things, conditions of access to gas transmission networks.
- 1.11 Given that the Authority's principal objective, as outlined above, requires the Authority to protect the interests of existing and future consumers, the primary focus of this IA is to assess the potential impact of the different options on the possible resulting levels of information available to the market. Subject to consideration of costs and the constraints that may act to limit the amount of information that can be released, the consumer interest would suggest selecting the option that is most likely to result in the maximum level of information considered necessary.

Background

- 1.12 The DTI has led a three-phase scheme to improve information flows from offshore producers to NGT and to enable certain information to be released to the market. The first two phases of the voluntary arrangement relate to improving and standardising information provided to NGT on gas flows and planned and unplanned outages, and the disclosure of operational and planning

information to NGT. Phase three relates to the disclosure of aggregated information to all market participants including, in particular, customers.

- 1.13 During the consultations, UKOOA raised concerns that, by virtue of paragraph 5 of SLC4E, a Network Code modification proposal could be raised requiring NGT to disclose detailed information for example on individual fields. UKOOA viewed this information as commercially confidential and sought assurances from Ofgem that information provided to NGT would not be disclosed to the wider market.
- 1.14 Ofgem issued various guidance as to how it might consider a Network Code modification proposal but following the request for further assurances from offshore producers, Ofgem issued a temporary information derogation to NGT in relation to SLC4E. Ofgem noted that the derogation was granted on an informal basis, as there is no statutory basis or basis in licence to enable the grant of any formal derogation or direction.
- 1.15 This derogation allowed NGT to conclude agreements with offshore producers for the voluntary provision of information relating to certain phase two information. NGT published on 1 October the first phase three information to the market. Nevertheless, the temporary informal derogation does not provide an enduring solution. Although an extension to the temporary informal derogation was subsequently granted, this was on the grounds that not granting an extension could risk the continued flow of information under this voluntary agreement.

Overview of key issues

Commercially sensitive information and confidentiality

- 1.16 This IA would be relatively simple if the costs and benefits were only related to consideration of the likely benefits of information flows against the associated costs to NGT of publication. However, offshore producers have indicated that they will only continue to participate in the voluntary scheme on the basis that they are satisfied that the level of information released does not result in commercially sensitive information being released. This IA is therefore complicated by the risk that offshore producers may decide that the levels of

information to be published were of a commercially sensitive nature and this, in turn, could ultimately result in their withdrawal from the voluntary scheme.

- 1.17 Ofgem considers that commercial confidentiality issues arising from the release of this information may be a legitimate concern. Nevertheless, the requirements for confidentiality provisions in relation to offshore information should only be relevant where they relate to a serious and prejudicial effect to their commercial position. There is a question however if producers have access to certain information not available to participants without offshore affiliates as to the value that derives from asymmetric access to production information. The cost to producers from the market having more equal access to this information could potentially be seen as a benefit to consumers.
- 1.18 These costs and events are difficult to quantify. In order to consider these issues requires commercial confidentiality concerns to be better explained and substantiated in order to provide a more objective basis for considering these issues.

Options

- 1.19 Ofgem has identified three possible options in relation to the GT licence in order to address specific concerns regarding the release to the market of offshore information provided to NGT:
- ◆ retain paragraph 5 requirements while providing further guidance on the treatment of potentially confidential commercially sensitive information;
 - ◆ introduce a power in the licence for Ofgem to provide NGT with derogations from certain information being disclosed, or
 - ◆ amend the licence to specify the levels of information that could be required by a Network Code modification.
- 1.20 Table A1.1 below summarises the proposed options against a baseline “no change”, which is presented as part of this IA. It shows for each option the proposed changes, if any, to its GT licence and the role of additional guidance on this licence under the different options. The final three rows show the

assumed levels of information that could potentially flow under the different options both to NGT and the wider market.

Table A1.1: Summary of potential options against no change scenario

	'No change'	Option 1 – new guidance	Option 2 – formal derogation	Option 3 – Information specified in the licence
Change to amended standard condition 4E	No change	No change	New derogation power introduced in licence	Licence amended to specify levels of information that can be required by Network Code
Role of additional guidance	Withdrawal of informal derogation	Withdrawal of informal derogation, new guidance on the account taken of commercially sensitive information	Withdrawal of informal derogation and existing guidance.	Withdrawal of informal derogation and existing guidance.
Possible release of information released to market	Phase three information at risk	Phase three information plus possible approval of new Network Code modifications requiring further information release	Phase three information only	Phase three information only
Information flows to NGT	Phase two information covered by the voluntary agreement withdrawn	Risk of phase two information covered by the voluntary agreement being withdrawn	No risk	No risk

1.21 By assumption the risks to the voluntary scheme of information not flowing or being released are largest for the “no change” option. This is because offshore

producers have already indicated that progress on the voluntary scheme depends on the way in which information is released to market. In particular, producers continue to express concern that information that they pass to NGT is subsequently required to be released to the market in a form that may undermine confidential or commercially sensitive information. Therefore, under the “no change” baseline scenario the licence condition would remain and the temporary informal derogation would be allowed to expire. As such, based on producers’ previous concerns it would be likely that there would be reduced information flows.

- 1.22 Under Option two the assumption is that the formal derogation power is introduced and that this would not require NGT to publish information provided to it by producers over and above that specified under phase three of the information release. Offshore producers have indicated that they are content with the levels of information to be published under phase three and therefore information would be expected to continue to flow under the voluntary scheme to NGT. NGT has also indicated its ability to publish category one and two information as specified under phase three. Option three has the same intended effect but would specify or limit the levels of information that could be required by the Network Code.
- 1.23 Option one is more complicated as it continues to provide the right for market participants to propose Network Code modification proposals requiring NGT to release information over and above the information envisaged under phase three. Such proposals would have to be considered on their merits, for instance, based on the marginal benefits of additional information (over and above phase three) against the costs. Ofgem could therefore decide either to approve or not to approve such proposals. In this respect, producers will also need to have confidence in the guidance that Ofgem issues in relation to how commercially sensitive information is treated. If they are not satisfied then it could result in a similar reduction in information as suggested under the baseline “no change” scenario. Importantly, on the other hand, option one has the potential benefit in terms of providing greater opportunity to release additional information considered to be beneficial to the market, where this is considered not to seriously and prejudicially affect commercial interests.

Assessment of options

- 1.24 This IA therefore presents some of the possible costs and benefits of each option given the above assumptions regarding the corresponding information that might be permitted to flow under each option and the costs associated with certain risks.

Costs and benefits

Benefits of offshore information release

- 1.25 A paper written by Barclays Capital in December 2003¹⁷ attempted to quantify some of the possible benefits of increased information flows to the market. In the paper, Barclays Capital quantified the benefits of offshore information release on the assumption that this resulted in assumed positive outcomes in the following areas:

- ◆ increased competition in production and supply;
- ◆ better coordination of outages;
- ◆ benefits from more efficient risk management;
- ◆ improved security of supply; and
- ◆ reduced balancing costs.

- 1.26 Barclays Capital estimated a benefit upwards of £265 million per year. Barclays considered this to be a conservative estimate as its analysis did not quantify all of the above factors. For the benefits that Barclays was able to quantify, it considered that some of these may also be underestimated. It should be noted that Barclays has expressed the view that these benefits were only presented to provide an initial indication of the potential magnitude of benefits that could accrue. This analysis is considered in more detail below.

¹⁷ "Benefits of greater information release in the UK gas market" Barclays Capital, December 2003

Table A1.2: Summary of annual estimated benefits of increased information flows

Annual benefit (£ million)	Barclays Capital's estimates
Increased competition	45
Coordination of outages	20
Efficient risk management	200
Improved security of supply	Not quantified
Reduced balancing costs	Not quantified
Total	265

Increased competition

- 1.27 To estimate the possible benefits of competition, Barclays Capital drew a parallel to the regulatory impact assessment (RIA) undertaken by Ofgem and the DTI on the likely benefits to competition arising from the introduction of British Electricity Trading and Transmission Arrangements. In that RIA, it was suggested that the benefits of increased competition could result in final prices to customers being 0.5 per cent lower than they would otherwise be. Barclays Capital suggested that improved market price signals emerging from increased information flows would be likely to have a more profound effect on competition in production and supply, by enabling market participants to form a better view of supply and demand fundamentals. This greater transparency and liquidity should also encourage the entry of new market participants.
- 1.28 Barclays calculated that the total annual benefit of greater information release of £45 million (based on annual throughput on the National Transmission System of 40 billion therms per annum, a wholesale price of 23p/therm reduction, and retail prices of 0.5 per cent equivalent to that presented in the BETTA RIA).

Coordination of outages

- 1.29 Barclays' analysis identified that information disclosure on planned outages would lead to better coordination of outage plans. For example, if market participants were planning to undertake maintenance outages, one linked to production and one to transportation, if information disclosure led to better coordination then the system as a whole would only face a single outage. Barclays estimated that if this occurred only twice per annum, the resulting benefit for the coordination of outages would be about £20 million per annum.

Efficient risk management

- 1.30 Barclays Capital noted that the spread (i.e. difference) between the price that gas is offered for sale and the price for purchase in the wholesale gas market is a measure of the efficiency of the wholesale market. The spread represents the “premium” paid by market participants to hedge their deliveries and offtakes in order to stabilise their cash-flows. Highly liquid and efficient markets have very low spreads. Market spreads are likely to increase significantly when market participants face unmanageable and unknown risks, for example, those risks stemming from the exercise of market power or asymmetric access to fundamental demand and supply information. In these circumstances, the spread has to be higher to compensate market participants for the increased trading risks that they bear.
- 1.31 Barclays Capital estimated that the release of greater market information could, on average, reduce these spreads to 0.05p/therm by bringing the spreads at less liquid times closer to the level of premiums observed when the market is working well. Based on traded volumes roughly ten times the physical deliveries of about 40 billion therms, this would equate to a reduction of the risk management premiums of the order of £200 million per annum.

Improved security of supply

- 1.32 Security of supply concerns generally relate to unanticipated demand and supply imbalances or shocks that emerge over timescales where the market is unable to respond, for example where it is not possible for supply and/or contracted demand interruption to provide an appropriate response. Barclays Capital noted that greater information availability would improve market price signals, thereby enabling producers, consumers and NGT to respond more readily to emerging expected supply shortfalls by arranging for back-up fuels, taking maintenance outages or rescheduling production. Barclays Capital found that attaching a figure to reduced interruptions would be difficult since it would require an assessment of the opportunity costs of production and the opportunities for fuel substitution.

Reduced balancing costs

- 1.33 Barclays Capital noted that improved information should improve the ability of NGT to manage the system. This should lead to a reduction in the costs of system balancing. Barclays did not attempt to quantify those savings as the interaction of NGT's incentives schemes and the Network Code balancing rules make it difficult to assess the overall balancing costs borne by consumers. It did however consider the savings to be potentially significant.

Benefits under different scenarios

- 1.34 It should be noted that Barclays Capital's analysis relates to estimates of benefits of improved information flows without specifying the precise nature of the information likely to be made available. Therefore, some comparison is required of the benefits of information flows depending on the level of detail of that information. This would include a comparison of phase three information flows against possibly more detailed information release.
- 1.35 It should be noted that for the purposes of considering the possible information flows under different scenarios, Ofgem has used Network Code modification proposal 727, which proposes real time information release at a sub-terminal level for indicative purposes. It should be noted however that Network Code modification proposal 727 is currently in its assessment phase and this should therefore not be construed as an indication that Ofgem will either approve or reject this modification proposal.
- 1.36 There are difficulties in assessing at an absolute level the total benefits of information release. This analysis is further complicated by the assessment of the benefits of more detailed information release relative to existing levels of information flows. On this basis, the benefits presented above can only provide an estimate of the potential total benefits that might accrue. By definition for these total benefits to accrue, they would need to be at a level of detail that will enable market participants to form a relevant view regarding the associated market prices.

Costs associated with greater information provision

- 1.37 The main costs associated with information possibly flowing under the different options relate to the cost of compiling, collating and publishing that information. Ofgem does not consider that producers' costs in collating and forwarding information to NGT will be affected by the level of information that NGT releases to the market. This is because the amount of information offshore producers provide to NGT is currently determined by phases one and two of the voluntary information release scheme. Therefore the use of this information by NGT, including its release to the market, would not affect producer costs.
- 1.38 On the other hand, there will be additional costs associated with NGT publishing information on its website. NGT has already incurred the costs in relation to the provision of category three and four information under phase three relating to end of day sub-terminal flow information and planned data on availability based on planned maintenance. As these costs are sunk, they are therefore not relevant to any forward looking assessment.
- 1.39 In relation to category one and two information relating to national and zonal information on near to real time flows and forecast flows, NGT has sanctioned expenditure of £135,000 to implement the final parts of phase three.
- 1.40 NGT further estimated that the publication of more detailed real-time terminal/sub-terminal flow data. NGT considers that in order to support the publication of these types of data, to this level and frequency, it will be necessary for it to undertake a number of system development activities and enhancements. The primary source for these data is the Gas Transmission Management System (GTMS) that is operated and maintained by its Gas National Control Centre (GNCC). The GTMS itself is part of an internal IT redevelopment project, which is known as the Integrated Gas Management System (iGMS) and it is anticipated that this replacement system will be implemented during Q2 2005. NGT considers that changes necessary to support detailed real-time flow data would have to occur after this replacement occurs and would amount approximately to an additional £100,000.
- 1.41 In addition to the system modifications to iGMS, NGT estimates that it will also be necessary for NGT Information Services (IS) to undertake a redevelopment of

the Information Exchange (IE) software and hardware. For the latter this includes upgrading web-servers amounting to approximately £350,000. NGT considers that potentially significant redevelopment will be required for interfaces between various IT applications as these have not been designed to process nor publish data on a near to real-time basis and this amounts to approximately £150,000.

- 1.42 Based on the above estimates, real-time information flows would cost around £600,000. NGT estimates an ongoing support and maintenance cost of this activity of approximately £85,000.

Table A1.3: Summary of estimated costs of increased information flows

Cost category		"No change"	Option one	Options two and three
Producers' additional costs		0	0	0
NGT's costs	Phase three information	0	135,000	135,000
	Future information release	0	600,000 upfront (85,000 ongoing)	0
Total		0	735,000 (85,000 ongoing)	135,000

Environmental impact

- 1.43 Ofgem does not consider that there would be any additional environmental impacts associated with the different options, although more efficient system operation and information could result in better production decisions.

Security of supply

- 1.44 Potential security of supply issues have already been explained above as an estimated benefit. Benefits could result from the improved ability of market participants and NGT to anticipate system shortages, coordinate possible system outages thereby ensuring greater year round availability of gas, and more efficient operation of the gas network and production facilities, thereby avoiding or reducing the likelihood of demand interruptions.

Risks and unintended consequences

- 1.45 This IA would be relatively simple if the costs and benefits were only related to consideration of the categories of costs and benefits as discussed above, namely the likely benefits of information flows against the associated costs to NGT of publication. However, offshore producers have indicated that they will only continue to participate in the voluntary scheme on the basis that they are satisfied that the levels of information released do not result in commercially sensitive information being released. This IA is therefore complicated by the risk that offshore producers may decide that the levels of information to be published were of a commercially sensitive nature and this, in turn, resulted in their withdrawal from the voluntary scheme.
- 1.46 In this context, the withdrawal of producers from the voluntary scheme could potentially result in significant costs in terms of reduced information to the market as well as damaging the amount of information that flows from producers to NGT. These costs are uncertain and it may not be the case that producers withdraw completely (or indeed partially) from the voluntary scheme, as certain information NGT receives is not covered by the temporary informal derogation and the corresponding information that has flowed under the different phases of the voluntary agreement. It is therefore difficult to assess these costs.

Competition

- 1.47 As for security of supply analysis, the above effects of this proposal in relation to competition have already been included in this assessment as an estimated benefit. For example, the increase in transparency could reduce barriers to entry to the market, making it a more attractive market to enter if there are higher levels of information available and therefore increased understanding about its operation. The possible detriments to competition could only correspond to the release of information that revealed company-specific information that seriously and prejudicially affected their commercial position. However, this would be an unintended outcome under option one, as Ofgem would expect to take appropriate account of these factors in undertaking an assessment of a Network Code modification proposal. It would also be unlikely in such scenario that producers would wish to continue to provide certain phase two information

under the voluntary scheme where it resulted in them being unduly disadvantaged relative to their competitors.

Distributional effects

- 1.48 As discussed above, there are likely to be distributional effects as a result of transferring the commercial value of certain private information held by offshore producers arising from the access asymmetric access to production information not available to the wider market.

Review and compliance

- 1.49 Under options two and three, once the derogation is issued /licence is amended, it would specify what information NGT would not be required by the Network Code and licence to publish. On this basis, there would be lower costs relating to consideration of potential new modifications to NGT's Network Code relating to the release of offshore information as this would, by assumption, be limited by the derogation to phase three information.
- 1.50 On the other hand, under option one the Network Code governance process would remain as the mechanism for dealing with the release of information over and above phase three information. Ofgem would have regard to the new guidance that it would issue. But the adoption of this guidance would not as such add additional review and compliance costs over and above those already existing as a result of SLC4E, as option one simply provides further guidance as to the way in which additional information release would be handled.

Conclusion

- 1.51 This IA assessment has presented the possible costs and benefits associated with information that could potentially flow under the different options. Considering the costs and benefits of increased information flows (without considering the risks and probabilities of these outcomes) would tend to suggest that the estimated magnitude of benefits of increased information far outweigh the costs, which are largely related to NGT's IT systems.

- 1.52 The analysis necessary to conduct a full IA is more complex. The costs associated with the possible detrimental effects resulting from the release of commercially sensitive information to the market are hard to assess in overall welfare terms. For example, the “costs” from the loss of private information may simply transfer to consumers as a benefit.
- 1.53 Importantly, the assumed levels of information flowing under option one are uncertain and depend on judgements regarding the level of comfort that any guidance Ofgem issued could give to offshore producers. If this guidance were insufficient then there are risks to the voluntary scheme. This IA has not attempted to quantify the possible risks, as Ofgem wishes to first gather views of the relevant parties of the key concerns regarding commercial sensitivity of information.

Appendix 2 : Comparison of gas and electricity market information

Phase 3 offshore information disclosure proposals	Equivalent information release in the electricity sector
<p>Category 1. Near to real time information on flows onto to the network aggregated on a North, South and National basis.</p>	<p>Near to real time data are available online by Balancing Mechanism Units (BMUs) (on the supply-side these are generation stations or (in some cases) individual units at those stations). This includes information on nominated intended physical output, generation capacity and bid/offer data. This information is published after gate closure.</p>
<p>Category 2. Forecast flows onto system aggregated on a North, South and National basis.</p>	<p>NGC publishes online a national forecast of demand at the 2-14 day-ahead stage and the 2-52 week-ahead stage. It also publishes a forecast of plant margin, which represents the difference between their forecast of demand and generators' estimates of total plant availability. This data is available on a national and zonal basis (for day and day-ahead forecasts).</p>
<p>Category 3. Planned outage/ maintenance data updated quarterly and for material changes. Aggregated on a North, South and National basis.</p>	<p>NGC publishes national and zonal data reflecting useable output, which provides data on the volume of plant outages.</p> <p>At a more detailed level it is possible to observe whether a BMU is generating ex-post. Market participants are also able to access individual BMU maximum export limit data after each balancing period providing an indication of maximum generation capacity. In addition, projected long-term transmission entry capacity (TEC) data provide an indication of unavailable plant, updated quarterly by NGC.</p>
<p>Category 4. Actual flows (end of day) by sub-terminal.</p>	<p>Parties to the balancing and settlement code and other market participants, where they pay for it, can obtain ex-post data on the metered output for each generation station or (in some cases) for individual units at those stations.</p> <p>Detailed ex-post information is available for each BMU that enables market participants to closely estimate metered volumes. This includes per period information on intended physical output (FPN) and bid/offer volumes and prices.</p>