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By email only

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Shell Energy Europe response to Ofgem's five-year Capacity Market Rules consultation.

Dear Mr Pelkonen,

Shell welcomes the opportunity to respond to Ofgem's consultation on its five-year review of the Capacity Market (CM) Rules.

In general, we share many of the concerns that Ofgem has identified in its five-year review and, while we welcome the proposals that Ofgem has developed, in many areas we do not think that the proposed solutions go far enough to address the concerns that have been identified.

One of the main drivers behind our thinking is, in line with Ofgem's own assessment, that the CM design has struggled to keep pace with the rate of change in the market, partly due to the slow pace of change that we have seen with the CM Rules, system and process.

We appreciate that Ofgem is only consulting on limited changes to the CM Rules as both the Government's five-year review and the renewed State Aid Approval process remain open and may result in more significant changes to the CM design. However, we would welcome Ofgem also considering wider rules/systems changes necessary to ensure that the CM remains fit for purpose. Currently we are concerned that the CM will become increasingly inefficient as the gap between the CM design and the market continues to grow.

Key changes that we consider need to be made include:

1. A reduction in the burden on market participants associated with the complexity of the CM Rules and Regulations. In particular, the need to relax Regulation 69 to allow additional information to be admissible post the prequalification results.

2. Opening up the CM and providing a level playing field for the participation of new capacity types, including the direct participation of foreign capacity, a reduction in the minimum threshold for participation from 2MW to 0.5MW and enabling new and innovative capacity types to participate.

3. Introduction of a more severe penalty to provide additional assurance that the capacity participating is the CM will be able to respond in case of a System Stress Event.

4. Providing the Delivery Body with appropriate resources necessary to deliver and manage a robust, agile Delivery Body Portal which can adjust to the new energy landscape.

5. Amending the rules to allow a 15-year CM Agreement to be transferred to a similar technology site which is greater than or equal to the AACO volume and which has completed the same milestones as the Transferor. Currently only an entire site can be sold but not a 15-year CM Agreement sold.

If you would like to discuss any element of this response, please contact Melanie Ellis – Head of Regulatory Affairs at Limejump [melanie.ellis@limejump.com] and Olaf Islei – Power Commercial Regulatory Manager at Shell Energy Europe [olaf.islei@shell.com].

Yours sincerely

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Section 1: The objectives of the Rules and Capacity Market interactions

Q1: Do you have any views on the interactions between the CM and other wholesale markets; such as forward markets, the balancing market, and markets for ancillary services?

Below we explain our view on the main interactions between the Capacity Market and other wholesale markets.

First, the Capacity Market results in depressed prices in forward markets. This is because anticipated Capacity Market payments enable generators that have been awarded capacity market contracts to profitably bid into forward markets at below cost. For example, at the time of writing the clean spark spread from summer 2021 onwards is negative indicating that there is enough capacity. It is our view that depressed forward prices are driven more by Capacity Market payments than the increase in the level of zero to low marginal cost generation.

Second, the Capacity Market results in greater capacity being available for dispatch than would otherwise be the case. It can be challenging to forecast the impact that this excess capacity has on near-term power prices. In the summer we have seen coal generation being declared as available even with a clean dark spread around -£18/MW, while the call time for these generators is set at 999 minutes, which means that National Grid cannot use them for balancing.

The excess capacity results in lower spot market prices and decreases spot market volatility and is also likely to depress the level and volatility of imbalance prices. While there is only a limited amount of data on which to base any view, in its State of the Market Report[1], Ofgem also found that in the first year of Capacity Market operation there were higher daily margins between demand and supply and cash-out prices were lower and less volatile than for the previous winter.

Q2: Do you have any evidence that design choices in the CM are driving inefficient outcomes in other markets?

We consider that generation decisions (or "outcomes") are driven by the interaction between the different markets and therefore do not seek to comment on the impact the CM on the efficiency of outcomes in other markets. Our view on whether the CM drives efficient outcome is framed as follows:

1. **Whether the CM results in a cost-effective level of capacity.** This relates to both the overall volume and type of capacity. For example, the level of capacity may be considered efficient, but if the capacity is made up of plants that are older or less efficient than would be the case in the absence of the CM, then demand will be met at a higher than necessary cost for GB consumers.

2. **Whether the CM results in (or impacts) the efficiency of dispatch decisions.** If the CM impacts near time dispatch decisions then it may result in demand being met at a higher cost, then necessary for GB consumers in any half hour.

Based on this approach we explain the design choices that we consider are driving inefficient outcomes below.

[1] https://www.ofgem.gov.uk/publications-and-updates/state-energy-market-2018

Concern that the CM design may not keep pace with market developments

As Ofgem explains in its five-year review, the CM was designed for a different market than the one we have today. We agree with Ofgem's assessment that the CM design did not foresee:

1. the significant increase in small or distributed generation;
2. growth trajectory of demand side response; and
3. emergence of subsidy-free renewable generation.

We would add the emergence of the DSR aggregator business model as an additional market development not foreseen by the CM design.

We agree with Ofgem's assessment that the original operating assumptions for the CM were made based on the delivery body reviewing approximately 300 applications for prequalification from 45 companies and that, instead, the delivery body now receives 1660 applications. Related to this, as explained by Ofgem, the complexity of pre-qualification was designed to provide delivery assurance for a few large new build projects, whereas the experience has been that most contracts for new build capacity (excluding interconnectors) have been for DSR or smaller distributed generation.

While the CM design did not anticipate the four trends listed above, it did not prevent them, and the rules have gradually been adapted to reflect them. However, we do agree with Ofgem's assessment that the complexity of the CM Rules and the CM design place an unnecessary regulatory burden on the type of market participants in today's market. This is because the legislation, rules, contracts, systems and processes were not designed with that market in mind. As a result, the CM design is unlikely to have delivered security of supply at the lowest possible cost to consumers.

In addition, we expect that the gap that Ofgem has identified between the CM design and the market will continue to grow over time. This is because (we agree with Ofgem's assessment that) the Rules change process has continued to increase in duration, complexity and difficulty in implementation – while we do not expect the rate of change in the market to slow down. Over time we expect that the CM will become increasingly inefficient as the gap between the CM design and the market continues to grow – unless additional action is taken to address this.

As explained above, we share many of the concerns that Ofgem has identified with the current CM Rules and CM design. However, while we agree with many of the changes that Ofgem has proposed to the CM Rules in the five-year review, we are not confident that they will be enough to address the issues that have been identified. We would welcome Ofgem's thoughts on whether tinkering with the existing design will be sufficient, or if a more aggressive overhaul is necessary.

Barriers to participation of new technology types

If the Capacity Market is to remain agnostic to capacity type, then it needs to be updated to enable participation of all types of capacity – including new or innovative technologies. This includes participation of hybrid sites, where for example, solar generation is combined with electricity storage, and Virtual Power Plants.

The level of capacity procured

As noted in Ofgem's State of the Market Report National Grid's forecasts of transmission demand have been consistently above out-turns since 2011 by an average of around 1.5GW and the Loss of Load Expectation (LOLE) for winter 2017/18 was 0.01 hours. This LOLE is significantly below the three-hour reliability standard that the Government has set to ensure that a cost-efficient level of capacity is procured.

This means that the level of capacity procured in the CM has been higher than necessary. The fact that the CM design has resulted in over-procurement of capacity is likely to have been exacerbated the effect of the CM in depressing forward, spot and imbalance prices.

We understand from Ofgem's State of the Market Report that National Grid has taken a number of changes to its demand forecasting process, which overall resulted in reductions to its view of underlying demand. We would welcome visibility on what these steps are and how we can expect them to impact the demand in the future.

Participation of Foreign Capacity

We consider that enabling the direct participation of "foreign capacity" is more likely to result procurement of the capacity necessary to achieve security of supply at the lowest cost to GB consumers than the current interconnector-led approach. We note that in December 2018, the Government indicated that it regarded interconnector-led participation as an interim solution[2].

To ensure timely implementation, we believe that Ofgem should already start developing the CM Rule changes necessary to enable the direct participation of "foreign capacity" as this may require a significant change to the existing CM Rules, processes and systems.

Q3: Do you have suggestions for how these markets can be better aligned and how any inefficiencies can be mitigated?

In our view, the main design elements of the CM design that need to be updated to ensure that it remains fit for purpose include:

1. Pre-qualification process
2. De-rating factors including interconnectors
3. Penalty regime
4. Notifications for stress events
5. Assumptions for stress events
6. Efficient data management

Section 2: Ofgem's Rules change process

Q4: Do you have any views on whether the proposed membership of the CM Advisory Group is appropriate, the form of participation from industry, along with any further points regarding meeting frequency and function.

[2] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2019.109.01.0003.01.ENG&toc=OJ:C:2019:109:TOC

We support the changes that Ofgem has proposed to make to the CM Rules change process, including establishing a monthly CM Advisory Group and lengthening the timescale for implementation to decouple the timeline for the rules change process from the annual auction cycle.

We agree that the participants in the CM Advisory Group should represent a cross-section of the industry. If managed properly, we prefer open participation – similar to the Charging Futures Forum or System Operation Forum. If open participation is not possible then, at the very least, membership should be rotated annually to ensure wide representation. We also see Delivery Bodies providing an assessment of the impact of implementation of any proposed change on their IT systems and processes as critical to ensuring success.

Ideally CM Advisory Group should act as an effective mechanism to filter and streamlining the current change process, which Ofgem notes has continued to increase in duration, complexity and difficulty of implementation. We suggest that Ofgem update the CM rules to describe the key elements of the CM Advisory Group (composition, governance, roles and responsibilities) in the CM Rules.

We also suggest that, in addition to considering individual change requests raised by market participants, the CM Advisory Group should also discuss anticipatory changes necessary to ensure that the CM design remains (as far as possible) fit for purpose. For example, the CM Advisory Group could start work to develop the necessary CM Rules changes to:

1. enable direct participation of "foreign capacity" and seek input from the delivery bodies on the associated IT implementation challenges; and
2. support a reduction in the minimum size of CMU participation from 2MW to 0.5MW and to ensure compliance with the Clean Energy Package.

The list of anticipatory changes that the CM Advisory Group should work on could be updated on an annual basis by the Government.

Q5: Do you believe the proposed framework and function of the CM Advisory Group is appropriate and would better facilitate the efficient operation of the CM Rules change process?

Yes, see answer above.

Q6: Do you have any feedback on our proposal to move to an 18-month implementation timescale: Consulting on rule amendments which would subsequently be implemented the following Delivery Year?

We support the proposed 18-month implementation timescale. This would have the benefit of clarifying and formalising what currently happens in practice.

However, we are concerned that lengthening the implementation timescale, reflects the reality that the CM change process is slow, complex and difficult, and does not address the underlying problem of why there are so many change requests in the first place.

Section 3: Regulatory Burden - Prequalification

Q7: Do you have any views on the proposed process, the implications of the change to the prequalification procedure and whether it would be a positive change in removing an administrative burden?

While we welcome the proposed change to the CM Rules, we do not consider that it would represent a material improvement to the prequalification process. The proposed change is similar to an existing process, which allows market participants to clone CMU data from one year to the next.

As an alternative, we suggest that the CM Rules are updated to allow a CMU that is already participating in the CM to pass through the pre-qualification process subject to a Director certifying that no changes have been made to a pre-defined list of elements/criteria seen as critical.

Q8: Do you believe the current length of the PW is appropriate and if allowing prequalification submissions to take place throughout the year would be beneficial?

While we welcome the proposed change to the CM Rules, we do not consider that it would represent a material improvement to the prequalification process.

In our view the pre-qualification window should be open all year round as this would help to address barriers to entry, attract additional participants into the capacity market, increase liquidity and help to ensure security of supply at the lowest cost.

The additional benefit from allowing the pre-qualification window to be open year-round is that this would help the Delivery Body better manage the resource constraints that it reportedly faces during pre-qualification; and, would likely to be more cost effective than the alternative solution Ofgem is consulting on – to get rid of the Chinese walls between the Delivery Body and NG ESO.

We understand that the concept of a "standing qualification" may create a challenge for CM systems where the pre-qualification criteria for each auction may change because of changes to the CM Rules and Regulations – and hence any standing qualification may have to updated. However, we believe that the benefits of updating the CM systems to enable this are likely to outweigh the costs. Market participants could be invited to update CMU data as necessary where the pre-qualification criteria have changed.

If prequalification was open all year it would also allow the Delivery Body to assess submissions across the year and give participants an opportunity to re-submit if errors are identified.

Q9: Do you have any feedback on the options presented in relation to the submission of planning consents and if there are any alternative options that we have not yet considered?

Planning should continue to be provided 22 days prior to the auction for both the T-1 and T-4 auctions. If a participant fails to deliver their planning consent, then they will not be able to participate in the auction and will not distort the auction volume and outturn price.

Q10: Do you have any feedback on the amendments to the prequalification data items listed in Table 1?

While we welcome the proposed changes to the CM Rules, we do not consider that they would represent a material improvement to the prequalification process.

In our experience, the area that are time consuming at prequalification which Ofgem should consider delaying are the requirements around including line loss factors in a letter from the DNOs to confirm the line loss factor methodology as per rule 13.2.6 (iii). This data can be looked up on the DNO webpages and therefore does not need to be provided separately.

In addition, the Delivery Body should provide an exhibits tool that is robust (we have experienced a number of systems issues with the current tool) and allows parties to electronically sign the exhibits. The current approach where market participants must print off, sign, scan and upload the exhibits is both labour intensive and error prone.

We would also suggest that the Delivery Body updates webinars which demonstrate to market participants how to complete an application on the portal for every type of CMU submission; and that any Delivery Body guidance documents, which reflect its interpretation of the CM Rules, are signed off by Ofgem to seek to minimize the scope for any inconsistency in meaning and interpretation.

Section 4: Regulatory burden – Reporting requirements

Q11: Do you believe that removing progress reports and the associated ITE assessments in all cases except those outlined, alleviates the regulatory and administrative burden, while still providing the necessary levels of assurance?

The ITE costs are significant as normally £350 plus VAT for each submission, regardless of size. We agree with the removal ITE reports as part of the 6 monthly updates. We also agree that these should still be required for milestone updates such as the FCM, SCM which benefit from third-party confirmation. We are also of the view that an ITE report is not needed for remedial plans as penalties will ensure participants provide a fair update.

Section 5: Secondary trading arrangements

Q12: Do you have a view on which of the sub paragraphs of rule 9.2.6 (d) (i)-(ix) should only apply to eligible secondary trading entrants and which to the other categories of acceptable transferees?

Q13: Is it appropriate to allow all parties who have prequalified for the CM for that year to become prequalified for secondary trading? Are there any unintended consequences?

We understood that it was already the case the parties who have prequalified for the CM are automatically prequalified for secondary trading. We are however, unsure whether a site that is already participating in a Delivery Year can provide additional volume in a secondary trading agreement where there is only a single meter measuring site performance.

Q14: What form should a register of acceptable transferees take? How should it be populated? And who should be responsible for maintaining it?

The Capacity Market Register should already contain the secondary trading contact email and phone number for CMUs that have entered prequalification.

It would be helpful if the Delivery Body also maintained a separate register showing all parties that are eligible for secondary trading and which contained information on the available volume and tenor for secondary trading and secondary trading contact information. If a party does conclude a secondary trade, then the Capacity Market Register should also be updated to reflect this.

Q15: Do you agree that it would be desirable to allow obligations to be traded between parties in amounts great than or equal to 0.5MW?

Yes, we support the reduction in the traded volume between parties to encourage liquidity in the Secondary Trading market.

Q16: Do you believe the current time period of five working days before the date of the trade by which applications must submit a request to trade is appropriate or should this period be reduced?

We believe that the time period should be reduced to two working days.

Q17: Do you believe that the current period of three months in which NGESO have to notify a secondary trading entrant of the prequalification decision is appropriate or do you feel this should be shortened? Do you have any suggestions on a revised length of this period?

We consider that the current three-month period is too long. The Delivery Body has only six weeks to assess the same information/criteria for pre-qualification, and we believe the same timeframe should be used to assess an application to register for secondary trading.

Q18: Do you agree with adding a provision for the time frame over which NGESO must respond to requests for a trade?

We believe that the time period should be reduced to two working days.

Q19: Do you think it is appropriate to extend the defined trading window to the results day of the T-4 auction for the relevant delivery year?

We support the permanent introduction of the rule to allow secondary trading to take place for a T-4 contract as soon as the T-4 auction has taken place. To mitigate against the potential risk of an increase in more speculative T-4 applications, Ofgem should ensure that some basic new build deliverables are required prior to the T-4 auction, such as the project having planning consent.

Q20: Does it continue to be appropriate for transferors to be required to meet their SCM prior to engaging in trading?

We believe that the SCM is not required so long as planning and connection data were provided.

Q21: Does it continue to be appropriate for transferees to be required to meet their SCM prior to engaging in trading?

We consider that the requirement on transferees to meet its SCM prior to engaging in secondary trading should depend on how close the new build CMU is to delivery. For timeframes greater than 12 months the transferee should only be required to show planning and connection consents. For new

build CMUs with less than one year to delivery, the transferee should be required to meets its SCM prior to secondary trading.

Q22: How should we address the risk of a trade being withdrawn where a transferor is terminated after a trade has been registered?

We suggest that where a transferor is terminated, the transferor should appeal the termination on the grounds that they have identified an Acceptable Transferee. They then are given 20,40 etc days for the trade and transferred obligations to be met.

Q23: How should we address the transfer termination risk where a partial or full capacity agreement is traded for part of, or the entire duration of a delivery year?

Where only part of the CMU has failed, as the other was successfully transferred, then the termination fee should be proportionally reduced.

Q24: Are there any amendments that could be made to the SPD framework following a secondary trade relating to partial agreement trades?

Where there is a partial trade then the SPDs should be carried out by the original CMU owner for the non-transferred volume. Where within the winter test period the transferee should be responsible for SPDs post transfer.

Section 6: Other changes to the rules

Q25: Do you believe the options presented related to SPD data submission are suitable and are there any options we may not have considered in order to help mitigate the impact on capacity providers?

We have a strong concern that the solutions proposed by Ofgem will not address the issues that market participants currently face in relation to SPD data submission. This remains an area of CM functioning that urgently requires improvement.

All parties are already using the suggested work arounds identified by Ofgem – for example, EMRS proactively provide an update on flows, they provide an ad-hoc summary when requested, and send flows to participants prior to sending to the ESO if data is missing.

However, even with the mitigating actions listed above the issues persist. This is because if a data issue is identified using these checks it may take months for the necessary data to flow via settlement runs to EMRS. For DSR this is of particular concern as six weeks of historic data from any test day is required to assess performance.

The only option if it is discovered that there is missing data is for the Half-Hour Data Aggregator (HHDA) to provide a bulk upload to EMRS. This is a complex process which is not widely known and is very time consuming for the HHDA. This may be support by reflecting in the CM Rules that HHDAs must provide data as requested and assist by bulk uploading data as required.

In addition to changes for the HHDA, we believe an alternative solution is required. We recommend that EMRS accept data flows from the supplier via email in a stipulated format. EMRS can then

provide this data on a timely basis to the Delivery Body to perform their SPD verifications. If EMRS want to validate the data submitted directly from Suppliers, we recommend they perform spot checks of this data against the formal Settlement flows as they become available.

This alternative solution avoids the issues that may arise where a participant has used the supplier data to validate its unit's performance, but the settlement flows are not in place, and therefore EMRS won't provide the necessary data to the Delivery Body.

Q26: Which aspects of a CMU configuration do you think should not be able to be amended following prequalification?

We agree with the proposed classification and de-rating levels.

Q27: Is there any other data that would be useful to add to the CMR and why?

We do not agree that component level information is required on the CMR as we do not think that this will materially improve CM functioning. We are concerned that having to provide information on 10-20 CMU components for each CMU will be administratively burdensome for the Delivery Body and will disproportionately impact DSR providers as they have more data sets to review and agree with the Delivery Body.

We see greater benefit to market functioning from improving the information captured at CMU level to, for example, show all the requirements that a CMU has and its current status against those, such as its FCM, SCM status, and to include the due date for new build CMUs at the top of the columns.

Q28: How should the ALFCO formula be adjusted for interconnectors when their output is affected by actions by NGESO?

We consider that as far as possible there should be a technology neutral and consistent approach to adjusting the ALFCO formula for capacity that is subject to an action by a TSO or DSO. As a result, our concern is not limited to the treatment of interconnectors and we do not consider that the current approach achieves this.

Q30: How should we differentiate between firm and non-firm connection agreements at the Distribution level?

We believe Distributed-connected generators with firm access rights should not be penalised in the event of a network interruption beyond its control. For non-firm capacity, the approach to adjusting the ALFCO should be the same as for other capacity that is subject to an action by a TSO or DSO.

Q31: How should distributed-connected generators with non-firm connection agreements be de-rated to accurately account for their contribution in a stress event?

On approach would be to model the likelihood of a lack of network access during system stress events to allocate a range of de-ratings for each of the access classifications.

Section 7: NGESO's incentives and role in the CM

Q32: Do NGESO's current financial incentives on demand forecasting accuracy, dispute resolution, DSR Prequalification, and customer and stakeholder satisfaction drive the intended behaviours by NGESO?

We believe that the current financial incentives do drive some good behaviors, and that now is a good time to review them – particularly given the fact that the CM design did not anticipate: (i) the significant increase in small or distributed generation; (ii) the growth trajectory of demand side response; or (iii) the emergence of subsidy-free renewable generation.

Q33: Do the financial incentives listed above remain fit for purpose?

At least in the short term, we see a benefit from introducing financial incentives focused on seeking to improve CM operational and system performance issues:

Operational performance: to measure and reward Delivery Body compliance with all CM Rule timelines e.g. publishing dates, guidance documents and respond to queries and applications in accordance with the terms of their SLAs and the CM Rules. In our experience, deadlines set in the CM Rules, such as having 5 working days to review a DSR test, are not always met. Missing such deadlines may have a big impact on capacity market users, and compliance with them should be monitored and encouraged.

Prequalification: Delivery Body performance should be measured against the proportion of participants that pass pre-qualification with a split for first time entrants and experienced applicants. An incentive should be set to encourage the Delivery Body to minimize the number of types of failure points in the pre-qualification process. If there is a systemic issue across the applications, then it is likely due to poor guidance from the Delivery Body and a financial penalty should be incurred.

Future proofing of CM: one of the concerns highlighted by Ofgem in its five-year review is that the capacity market (the portal, the prequalification process etc.) was not designed for the market that we see today. To try to address this, we believe that it the Delivery Body should seek to anticipate and develop tools and systems that will be robust to such changes. For example, the number of CMUs participating in the CM has increased by roughly 200-300 hundred every year – and we could anticipate that this trend will continue in the future.

Q34: What behaviours and outcomes should NGESO's financial incentives drive? What form should these incentives take?

At least in the short term, we see a benefit of focusing on incentives that seek to address the operational and system performance issues that have been identified.

Q35: Do you agree that a demand forecasting accuracy incentive remains appropriate? Support the idea that demand forecasting accuracy should be wrapped into a wider forecasting accuracy target and not necessarily just for the CM to ensure common standard across all forecasting.

We agree that a demand forecasting accuracy incentive remains appropriate. The level of the incentive should reflect the additional costs that the Delivery Body imposes on the system by either under-forecasting or over-forecasting demand.

Q36: Do you agree that the dispute resolution incentive should be based on a proportion of Prequalification or Reconsidered Decisions overturned by the Authority rather than on the absolute number?

We would like to see the penalty based on the number of failed prequalification CMUs on the basis that if NGESO did a great job of Prequalification preparation there should be limited errors. If the incentive is just on reconsidered decisions overturned it does not capture the workload and expense that participants incur when they have to appeal to the Delivery Body which may be overturned in the first appeal process. It would also be interesting to classify this between first time entrants and regular market participants. This would address the point about whether the guidance is set for the most inexperienced market participant.

We support retaining the penalty for overturned decisions. Rather than being by absolute number this could be by type of error.

Q37: Do you agree that the DSR Prequalification incentive should be replaced by an incentive intended to drive NGESO to aid smaller providers, new entrants, and innovators navigate the CM?

See answer to question 36.

We believe the level of advice should be structured to assist a new market entrant and then it will be fit for purpose for all.

We don't believe that NGESO currently do anything to drive DSR prequalification. The increase in DSR participation was encourage by the Transitional Arrangement auction out-turn price of £45k/MW and more aggregators presenting the opportunity in the market.

The area that NGESO should be targeted to incentivise is the level of DSR which is Proven rather than unproven, as they can directly influence this by providing guidance earlier and helping participant navigate the requirements to become proven. It is also better for the CM market as the participants capability is proven.

Q38: Do you agree that an incentive on NGESO's customer service and stakeholder engagement remains appropriate? What form should this incentive take?

We believe that a customer service and stakeholder engagement incentive is still relevant. Given the importance of the CM, we would expect a year-on-year improvement until they Delivery Body has reached a satisfaction level that represents best practice.

Q39: Do you agree that the incentives on NGESO for delivering the CM should be aligned with NGESO's incentive framework in the longer term?

We agree that the incentives could be aligned. However, we are not convinced that this should be a priority area for the current review of the CM Rules.

Q40: Does the separation of the EMR Delivery Body from NGESO continue to remain appropriate given the separation of NGESO from the rest of NGESO plc?

We are not convinced that now is the right time to review the appropriateness of the existing legal separation of the Delivery Body and NGESO, as we believe that the most critical challenges that have been identified with the CM design can be addressed under the current set up.