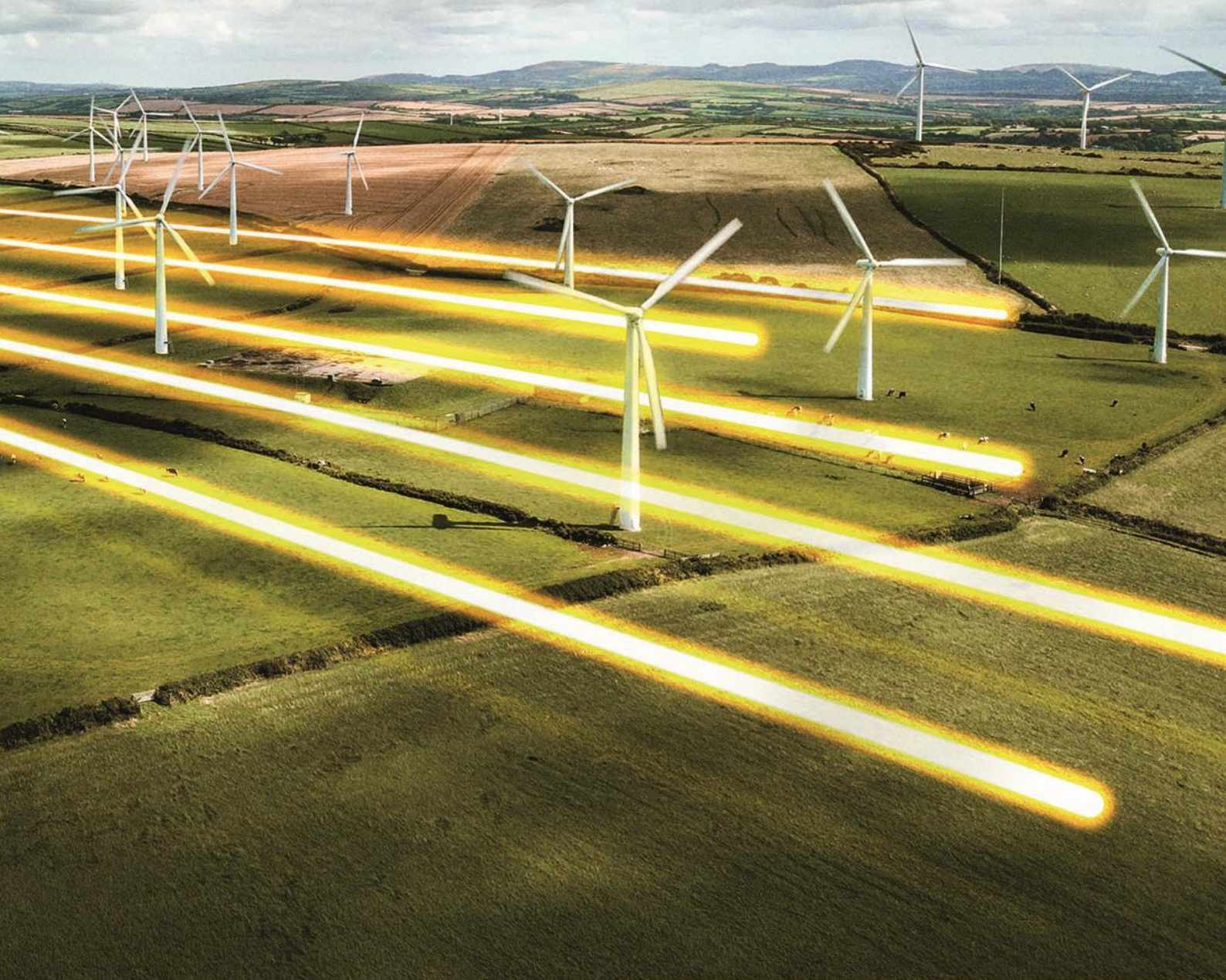


# Phase 2 Consultation responses

Early Competition Plan

September 2020



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## Introduction

A key success criterion for the ESO is ‘competition everywhere’, which forms the basis for a central theme of our RIIO-2 business plan – unlocking consumer value through competition. Our five-year strategy is to use competition to support the development of the network – ensuring it is always ready for the demands placed on it and can operate securely as we transition to a zero-carbon electricity system.

The ESO has already begun the process of introducing competition into electricity transmission through our NOA Pathfinders (‘pathfinders’). The pathfinders focus on seeking wider “whole system” solutions to transmission system needs that do not require a transmission licence.

There remains significant scope for extending competition by also allowing third parties to offer solutions across all network needs, regardless of whether they require a transmission licence. As requested by Ofgem, we are currently developing an Early Competition Plan (ECP) for the onshore transmission network in Great Britain to explore options to address this area. The ECP will supplement the late Competitively Appointed Transmission Owner (CATO) model thinking currently being developed by Ofgem. It will be developed with flexibility such that it can be implemented both pre and post CATO legislation. Following completion of the ECP Ofgem will decide whether early competition will be introduced.

Early competition refers to competition before the solution to a network ‘need’ has been decided. Based on information provided by the Transmission Owner’s (TOs), Ofgem estimates the pipeline of potential projects that may be suitable to undergo competitive processes over the course of the RIIO-2 price control, has an estimated average value of over £1bn annually.

This document sets out the key messages captured in the stakeholders’ responses received to our [Phase 2 Consultation on the Early Competition Plan \(ECP\)](#) that ran from 3 July, 2020 to August 14, 2020.

We received seven responses in total, one confidential response and six from the following stakeholders:

- (1) Scottish Power Energy Networks (SPEN)
- (2) Scottish & Southern Energy Networks (SHET)
- (3) National Grid Electricity Transmission (NGET)
- (4) National Grid Ventures (NGV)
- (5) Storelectric
- (6) Transmission Investment.

Stakeholders’ responses have been anonymised. We have only included feedback which relates specifically to the model proposed and comments in relation to topics outside the scope of early competition (e.g. pathfinders) has been considered internally but omitted from this document.

We also note that stakeholders felt that further detail was required in many areas which will be developing as part of our Phase 3 Consultation. We will be holding several workshops and bi-lateral conversations and welcome discussions with any interested parties on our proposals.

We thank the responders to the consultation for their valuable feedback and look forward to working collaboratively towards the Phase 3 Consultation and the ECP.

## Executive Summary

### Suitability of Early Competition

Most stakeholders agree with the drivers of network needs that were included within the scope of early competition. Some stakeholders expressed concerns regarding asset replacement as a driver. Some are of the view that customer connections are also not suited as a driver.

Stakeholders agree with the 'early' tender point. They suggested additional points to be addressed for market engagement at the 'very early' tender point. Several stakeholders believe that the ESO should consider market appetite to get the best value for the consumer. However, several stakeholders do not consider market appetite and the absence of a value threshold as a suitable criterion in the early competition.

Several stakeholders are supportive of the approach where the ESO makes recommendations to Ofgem on project suitability for competition with a recommendation of a requirement for greater transparency and accountability in this process.

One stakeholder perceives a strong conflict of interest in TOs being involved in identifying solutions, suggesting that they could repeatedly prevent projects from being competed because of the timing. They also argued that TOs might not be in the best place to identify solutions with the scope of ECP going beyond traditional solutions.

### Parties, roles and responsibilities

Three stakeholders expressed concerns regarding the incumbent TOs participating in competitions as a market player. Two of which were of the view that TO's should be the counterfactual similarly to Pathfinders. Others agree that the incumbent TOs should be able to participate. Others noted that the TOs have a significant advantage over non-TO bidders.

Several stakeholders agree with the new roles identified in the early competition model.

One stakeholder's view was that to enable the ESO to undertake roles there should be full separation of the ESO.

### Commercial model

Stakeholders have multiple views regarding the proposal of a Tender Revenue Stream (TRS) model as the default solution for early competition. One of the stakeholders proposed that any revenue model should provide cost certainty and protect against volatility and be clear at the tender stage.

Several stakeholders agree with the proposal for revenue during the preliminary works to encourage participation in early competition. In the event of lengthy construction periods, this may encourage wider early competition by enabling bidders with limited financial resources to participate.

All stakeholders apart from one agreed in principle that there should be a cap on the revenue period.

### Risk allocation

Some additional risks identified by stakeholders included grid connection lead time and cost, the inability to finance the project due to allocation of risk within the contract, political risk, management of environmental, social and governance risk, network charged bad debt and interface risk.

Several stakeholders broadly agree with the proposed allocation of risk. However, a few stakeholders expressed concerns regarding the overall risk allocation between bidders and consumers.

### Tender process

Stakeholders support collaborative work to facilitate tenderers but raised concerns about sharing intellectual property being shared at the 'very early' point prior to a tender commencing.

Some stakeholders are also supportive of flexing the procurement process, but others believe that it will be extremely challenging to flex the procurement and maintain consistency and fairness in evaluation.

A stakeholder believes that the ESO should be responsible for all the information and tools required to identify a network constraint and run a tender process.

Stakeholders have suggested additional points of consideration at Pre-Qualification (PQ) stage including financial and sustainability features.

With respect to ITT (stage 1), stakeholders suggested that in circumstances where the ESO does not have a strong understanding of the technical properties of a new solution, an Independent Technical Expert should be used. With regards to ITT (stage 2), stakeholders suggested additional considerations such as replacement costs, interface costs and Operation and Maintenance (O&M) proposals.

Stakeholders requested further detail on the project, delivery risks, financial model, incentives and licence requirement for a solution. A stakeholder did not agree that an incumbent TO should require a CATO licence.

Several stakeholders do not support the requirement for bid-bonds at the point of contract award and expressed that bid bonds may prove prohibitive of new entrants, small developers and/or new technologies.

## Post-tender

Several stakeholders believe payments to bidders during construction would provide competitive financing arrangements, especially for smaller bidders.

Several stakeholders believe that any penalties and incentives that are set should ensure the minimal disruptions to consumers and be aligned where possible to the RIIO framework.

Some stakeholders believe that there needs to be wider regulatory improvements to enhance the speed at which TOs can offer customer connections. Small innovative players are often unable to participate in short term requirements. Participants who win tenders should be prioritised over other connections. Exception for adaptations may be considered when a non-network solution is being commissioned.

A stakeholder noted that on the operational incentive regime, some of the considerations included new investment, operational switching and outage management.

Most stakeholders agreed that the existing codes and processes can be modified to incorporate solutions. However, several stakeholders do not agree that they will necessarily be 'minor' adaptations or as straight-forward as first thought, especially if a more integrated solution is adopted.

While several stakeholders support the requirement for a decommissioning plan and assumed cost within the tender evaluation. Some stakeholders expressed that decommissioning should not be assumed at any point.



## Detailed responses to questions

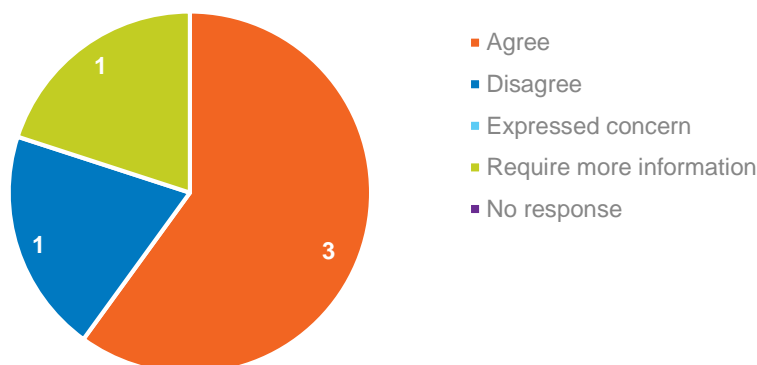
## Detailed responses to questions

### Suitability of early competition

#### Identifying network needs

#### 1. Do you agree with the types of drivers of network needs that should be within the scope of the ECP?

Stakeholder responses:



Most stakeholders agree with the suggested drivers.

Several stakeholders expressed concerns regarding the inclusion of asset replacement as a driver within the scope of early competition. Reasons included the idea that another party independently identifying or replacing infrastructure could have adverse implications on the continued operation of the network and contradict the statements in the proposal about the limited value of competition for asset replacement. However, one stakeholder identified that asset replacement is similar to a new need and, as such, should be in scope.

A few stakeholders are of the view that customer connections are also not suited to be included as a driver. One stakeholder responded that the introduction of competition in customer connections should be prioritised alongside the major constraints identified in the document.

One of the recommendations received was for the term 'high voltage and stability' to be replaced. It could be re-phrased to 'network constraint' as this captures the three broad constraint issues faced on the transmission network: high voltage, thermal and stability.

One stakeholder suggested that the competition should not be limited to non-network solutions. Alternative solutions such as Virtual Transmission Lines can be provided by batteries.

#### Early Vs Very Early competition

#### 2. Do you believe a tender launched 'early' (i.e. after an indicative solution has been identified) but informed by market engagement that begins 'very early' is a suitable process?

Several stakeholders agree with the 'early' tender process.

A stakeholder raised limitations in relation to the indicative solution development and Network Options Assessment (NOA). Clarity on NOA is essential to all stakeholders, specifically the incumbent Transmission Operators (TOs) as NOA makes recommendations for investment. Currently the NOA process does not consider voltage/stability in detail. A different approach as opposed to a 'Proceed recommendation' can be adopted to ensure that there is enough time for any cost-benefit analysis or tender work to be undertaken ahead of the project commencement.

Stakeholders proposed that the ESO shall consider and address the level of engagement that this will entail and ensures that it is properly skilled and resourced to undertake such engagement, without substantial investment from Ofgem and, in turn, consumers.

It was also recommended by a stakeholder that if early market engagement lacks market appetite, the ESO must reconsider undertaking a tender exercise at this stage. The ESO should not delay efficient solutions by incumbent network companies because of a lack of market appetite.

Another stakeholder expressed concerns regarding the provision of information and transparency. They also highlighted the need to protect intellectual property and suggested the use of an incentive mechanism for market participants' engagement costs.

### Criteria for competition

#### 3. Have we identified the appropriate criteria to determine whether to compete a project?

Stakeholders were generally supportive of the proposals with some reservations about the minimum threshold and market appetite.

Stakeholders noted that the removal of the minimum threshold could significantly impact the overall financing of the incumbent TO business. The certainty of need principle could dictate the level of interest from the market and the challenges the network would face if it is owned by multiple small parties like in case of an emergency or black-start scenario.

Another stakeholder does not consider market appetite to be a suitable criterion. The absence of a value threshold gives network operators no certainty as to what projects could potentially be eligible for delivery via early competition models, making network planning and regulatory business planning challenging.

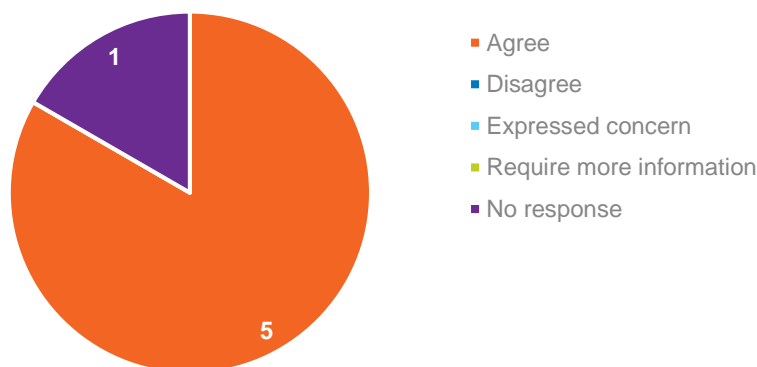
One of the stakeholders proposed that customer appetite could be added as an additional consideration in the case of dedicated new connections. The criteria should be based upon network conditions rather than an arbitrary value and participants assessed on a range of factors.

A stakeholder who supports a degree of market appetite identified that the appetite will be linked to the certainty of need.

### Tender decision

#### 4. Do you agree with the approach where the ESO makes recommendations to Ofgem on the projects/needs which are suitable for competition?

Stakeholder responses:



Several stakeholders are supportive of the approach where the ESO makes recommendations to Ofgem on project suitability for competition with a recommendation of a requirement for greater transparency and accountability in this process.

One of the stakeholders is of the view that the only way this can be robustly measured is by using the TO's network proposal as the counterfactual solution against which all market bids are measured.

Another stakeholder perceived a conflict of interest in relation to the ESO making recommendations on projects which are within the geographic responsibility of NGET.

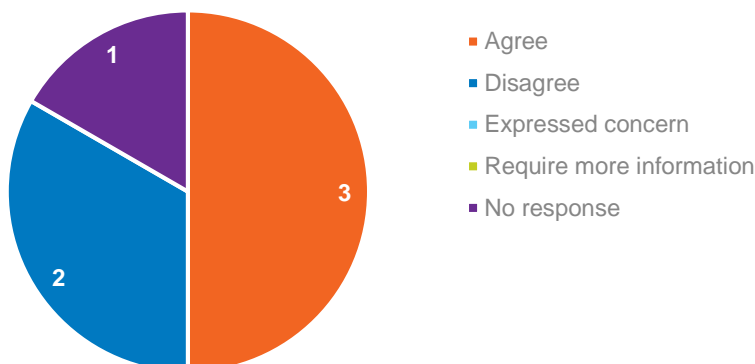


## Parties, roles and responsibilities

### Parties

#### 5. Do you agree that the incumbent TOs should participate in competitions through the same process as other bidders, and what mitigations may be needed to allow this?

Stakeholder responses:



Three stakeholders expressed concerns regarding the incumbent TOs participating in competitions as a market player. Two of the three stakeholders believe that TO's should submit solutions as the counterfactual to the rest of the bidders. Stakeholders noted this position was based on :

- TOs would be out of the realm of the regulatory framework in which they are designed to operate. With the inclusion of several small players in the network, there is a greater complexity to the overall management of the network, risking the operability and resilience of the network
- The TOs are obliged under acts and codes, to present the most economic and efficient solution to address network needs.

One stakeholder was strongly opposed to TOs competing, believing that ECP is alternative to the regulatory delivery of assets and that TO participation should be excluded as it would bring constraints and conflicts to the process.

The remaining stakeholders agree with the incumbent TOs participating in competition as it is an open and transparent market. However, one stakeholder noted that the TOs have a significant advantage over non-TO participants including connection process, energy cost, cost of capital, user charges, and land and development rights and the ESO should not rely on them for assessing network needs.

A stakeholder proposed that the ESO should have greater technical network understanding and data and not be reliant on incumbent TOs when assessing network needs and requirements. Another suggested that stringent business arrangements should be in place to prevent conflicts.

### Roles and responsibilities

#### 6. Which parties do you believe would be best placed to fulfil each new role identified in the early competition model and why?

Several stakeholders agree with the new roles identified in the early competition model. Stakeholders also suggested the following:

- Requirement of a truly knowledgeable third party to run the procurement process to ensure that there is no conflict of interest in relation to ESO/NGET
- The ESO or Ofgem could carry the role of Procurement Body
- The ESO could carry out the role of Contract Counterparty and Payment Counterparty and Ofgem the roles of Licence Provider and Approver
- The Procurement Body or Approver should have the same statutory duties as a TO with respect to its licence obligation to develop an economic and efficient system

- The role of Approver, Licence Provider and Licence Counterparty must be carried out by Ofgem where a transmission licence i.e. Competitively Appointed Transmission Operator (CATO) has been granted to operate transmission network, as is the case for Offshore Transmission Owners (OFTOs).

For non-network solutions, all stakeholders agree that a contract counterparty is required to monitor and manage compliance against a contract for any solution not performing the function of electricity transmission.

One of the suggestions on the proposed scope of the roles and responsibilities of parties as provided by a stakeholder is to be consistent with the ESO’s licence and the existing regulatory regime.

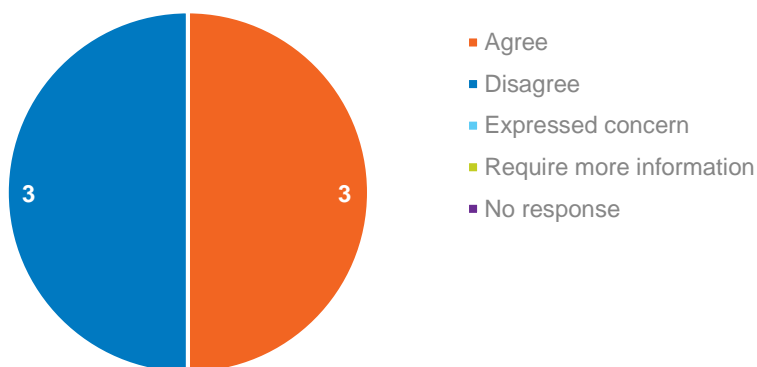
One stakeholder requested further information on the roles and responsibilities of the network planning process.

## Commercial model

### Revenue

#### 7. Do you agree with a TRS type revenue model as the default model? In what circumstances (if any) do you believe a regulated model may be more appropriate?

Stakeholder responses:



While there is support for a TRS model as the default solution for early competition several stakeholders expressed some concerns. One of the reasons stated is that there is no robust justification as to why the TRS type revenue model is the appropriate approach for early competition. A stakeholder proposed that any revenue model should provide cost certainty and protect against volatility and be clear enough at the tender stage for bidders to be transparent with costs and anticipated rates of return.

A stakeholder notes that for non-network solutions, the bidders should be able to participate in other revenue streams. This will reduce the cost to end-consumers whilst providing additional value to the network.

#### 8. Do you believe that revenue during the preliminary works period would help encourage participation in early competition? If so, what mechanism would be most appropriate?

Several stakeholders agree with this mechanism to encourage participation in early competition. In the event of lengthy construction periods, this may enable bidders with limited financial resources to participate.

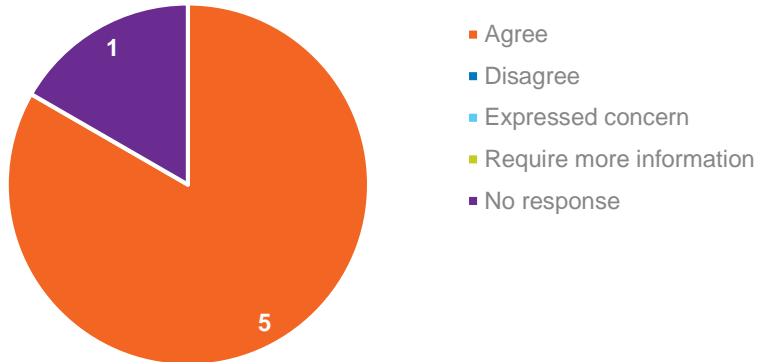
A stakeholder considers that a payment milestone during the preliminary works would be beneficial. All bidders would need to be aware of proposed funding in advance. Noting this would be dependent on the successful bid. This could be useful to incentivise bidders to develop solutions effectively and mitigates the consenting and planning risks.

One stakeholder is of the view that a combination of fixed and flexible payments with a milestone mechanism could be beneficial to a wider range of solutions.

**Revenue period**

**9. Do you agree with the current preferred option of setting the duration of the revenue period to the length of the network need?**

Stakeholder responses:

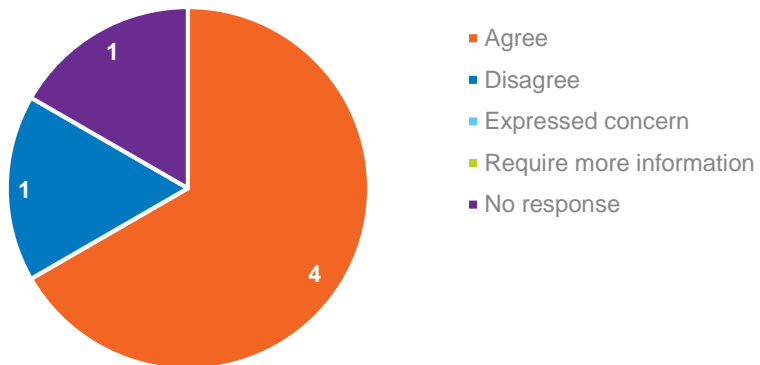


The majority of stakeholders agree that the duration of the need is an appropriate period.

A few stakeholders suggested that the revenue period is not related to the length of network need which could be 40 years or more. This could limit the introduction of new technology on the network and reduce value for consumers.

**10. Do you agree that the maximum length of the revenue period should be capped? If so, at what length?**

Stakeholder responses:



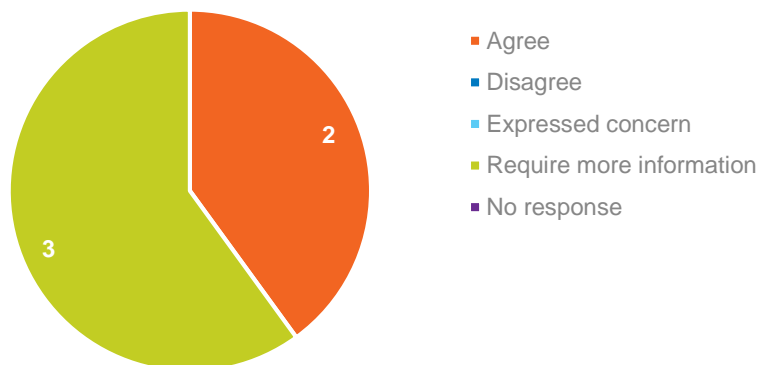
Several stakeholders agree that there should be a cap on the length of the revenue period. This should be consistent with RIIO-2 depreciation schedules. This avoids inconsistency in any assessment due to the timing of cash flows.

A stakeholder suggested that a long revenue period of 45 years may result in reduced market appetite to participate in competition and/or significant premiums built into bids to cover uncertainty associated with long-time horizon.

One stakeholder, who was opposed to capping the duration, argued that bidders would have to make assumptions on residual value which is likely to be less efficient.

### 11. Do you agree with the current preferred option of including a mechanism for extending the revenue period? How should such a mechanism work?

Stakeholder responses:



Several stakeholders agree that there should be a mechanism to extend the licence/contract. One stakeholder fed back that this extension must only be available if the specific service continues to meet a network constraint. Non-network alternatives should be able to continue to offer other services to the ESO in the event the contracted revenue period expires.

One stakeholder is of the view:

- The ESO should consider the option of providing handover to the incumbent TO. This would help ensure that any ongoing operation and maintenance is undertaken in a safe and efficient manner
- If an asset is fully depreciated during the revenue period, the successful bidder should not retain any additional revenue beyond operating and maintenance costs
- If the asset continues to be of use to the wider GB transmission network and meets all relevant safety and technical standards, the owner should be remunerated for operations and maintenance cost only.

A few stakeholders sought further clarification on what arrangements the ESO would put in place to extend the revenue period and how the extension of a revenue period could be delivered in the most cost-effective way for consumers.

One stakeholder suggested a transfer to the incumbent TO should be excluded as it would advantage network solution over non-network solutions.

## Costs

### 12. What is the most appropriate cost assessment mechanism for fixing underlying costs after preliminary works are completed?

Stakeholders highlighted several considerations on a cost assessment mechanism for fixing underlying costs:

- Appropriate payments following successful completion of post-tender milestones will incentivise efficient delivery of the selected projects. Post-tender milestone payments should clearly be laid out in the Invitation to Tender (ITT) stage
- The cost assessment mechanism must avoid unduly penalising the developer for costs beyond their control, at least for large value projects
- Established cost assessment processes in place under the OFTO and interconnector cap and floor regimes demonstrate how costs can be evaluated objectively on a case-by-case basis
- Certain points such as robust checks, appropriate level of assurance etc., need to be given consideration during cost assessments
- All participants involved in the development of onshore transmission network should be subject to identical processes for fixing underlying costs after preliminary works are completed.

For one stakeholder, the economic and efficient review of the OFTO regime has proven lengthy and contentious.

**13. Will there be enough lender interest in a debt competition to drive competitive pricing? What other debt structuring options do you believe would be appropriate?**

Several stakeholders believe that there is no shortage of debt providers for qualified parties who understand the technical and construction risk associated with developing projects. There is usually reasonable appetite from lenders to fund good projects.

One of the stakeholders expects the following:

- Detailed assessment of potential market players would have been carried out prior to this stage in the development of the tender. It would include the market players' solvency, credit rating, chase for capital risk and default positions on interest rates together with investigation into the investment potential of future market players, and resultantly how customers will be sheltered from any default
- The ESO should use the existing regulatory safeguards in place for the incumbent TOs, as a minimum threshold evaluation, to ensure a level playing field and to ensure solvency risk, payback and other commercial interests are balanced against the long-term interests of the network.

Another stakeholder highlighted the following features that would make an asset attractive:

- High-credit worthy counterparty, with regulation support as a backstop
- Long term revenue stream with a floor to cap senior lender losses
- Tightly defined risks at the project vehicle
- Compensation on early termination
- Protection against force majeure.

**14. How should the indicative debt costs and level of gearing used in final bids be determined? How should the risk of the actual amounts be allocated?**

Several stakeholders noted that there should be a process in place that governs and ensures consistency in how the level of gearing and indicative costs are determined for all bidders.

Another stakeholder noted that prescribing a gearing level to be used by all bidders could be appropriate to ensure that financial risk levels are not excessive.

One stakeholder believes there is potential for increased financing risk under CATO if projects are undertaken in highly geared Special Purpose Vehicles (SPV). To mitigate the financing risk, placing a lower limit on debt cover ratios would ensure bidders are not taking commercial debt to extreme levels.

Another stakeholder believes that the level of gearing will be determined by the duration and certainty of revenue streams, the allocation of risk in the contract and counterparty risks. The Procurement Body should require that debt should come from high quality lenders which will have done a high degree of due diligence.

A stakeholder suggested the use of a gain sharing mechanism.

## Risk Allocation

**15. Are there any other key risk that should be addressed at this stage?**

Some of the additional risks identified by the stakeholders include:

- The inability to finance the project due to allocation of risk within the contract and/or concerns regarding the Counterparty or political risk
- Management of environmental, social and governance risk
- Change of law and codes to sit with the consumers
- Network charges bad debt
- Interface risk.

The main risks of a non-network solution are the grid connection lead time and cost. These should be guaranteed to the non-network solution provider and expedited to be available when the plant is complete. The same should be given to network solutions, levelling the playing-field.

One stakeholder suggested that the ESO seeks clarification as to how those risks identified should be managed in order to shield consumers from price fluctuations as well as the risk of stranded or sub-optimal assets and solvency issues.

**16. Do you consider the overall risk allocation between bidders and consumers appropriate? What are your views on risk allocation?**

A few stakeholders expressed concerns regarding the overall risk allocation between bidders and consumers. Some stakeholders are of the view that in a truly competitive market, it would be up to bidders to determine the allocation of risks.

One stakeholder required clarity as to what extent the Successful Bidder must take consenting risk.

Several stakeholders agree with the risk allocation. Bidders are willing to shoulder some of the upfront risk of developing these projects prior to contract award. One noted that after contract award, risk allocation must be unambiguous to enable construction debt financing and a lower overall cost to the consumer.

## Tender process

### Pre-tender activities

**17. Do you have any views on the list of potential activities that could be undertaken to support bidders, the information that would be required and the potential value to consumers they could drive?**

While some stakeholders are supportive of all the proposed options, they state that the ESO should have the full technical information available to them and not be reliant on incumbent TOs.

A stakeholder noted that the ESO must formalise the process, costs and timescales by which customers can expect to receive feedback. The ESO also needs to consider the balance of additional pre-tender activities and the associated time/cost with the impact of further delay to the commencement of the project. A measure of collaborative work should go into helping tenderers.

A stakeholder believes that any party who enters the process must be able to demonstrate that they are able to meet the requirements independently, at their own cost and risk.

### Tender process model

**18. What are your views on the challenge of flexing the procurement process to varying needs but maintaining standardisation?**

Some stakeholders are supportive of flexing the procurement process. Other stakeholders believe that it will be extremely challenging to flex the procurement and maintain consistency and fairness in evaluation.

Regarding the tender process model, some stakeholders believe that the ESO has not provided enough details to comment on.

A stakeholder is of the view that 'Utility Contract Regulations' might not be suitable for the competition process. Passporting prequalification may be required for a certain period, however, passporting should reflect not project value but technology type.

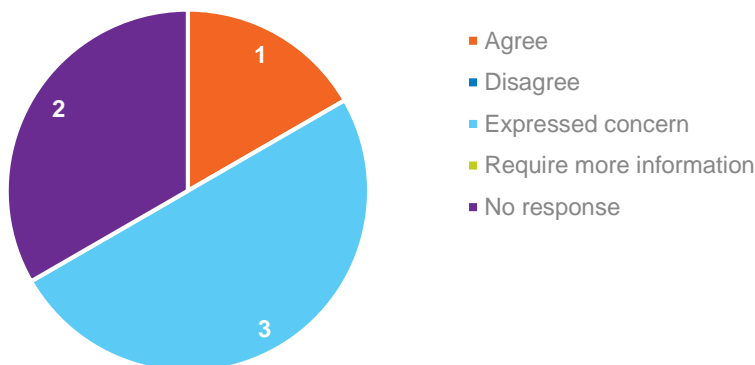
A stakeholder noted that there should be an invitation for Expressions of Interest (EOI) that would negate the need to survey the Official Journal of the European Union (OJEU).

One stakeholder agrees there needs to be some flexibility to reflect a project's size and scope, but that there also needs to be some standardisation to build market interest, suggesting some underlying principles are set out but then a tender can be tailored as required.

Another stakeholder noted concerns regarding the Electricity Ten Year Statement (ETYS) models' sensitive information can easily be solved by signing a simple non-disclosure agreement that is then superseded by any licence.

**19. Do you agree that the proposed list of primary information relating to network information is adequate to identify and cost potential solutions for both network and non-network solutions?**

Stakeholder responses:



A stakeholder believes that the ESO should be responsible for all the information and tools required to identify a network constraint and run a tender process.

A stakeholder noted, in relation to items listed include land information provided by the incumbent TO, that TOs are not being funded or currently resourced to provide this service to potential bidders.

Some stakeholders are also concerned about how the data provided by bidders will be assured, quality controlled, updated, managed, and secured and what course of action will be taken against parties liable and what action will be taken to protect the parties affected.

One stakeholder expressed concerns regarding the data format which needs to be recognised and can be anonymised if necessary.

**Pre-Qualification (PQ)**

**20. What are your views on our current thinking for the elements that potential bidders should demonstrate at PQ?**

Several stakeholders support the requirements set out in the consultation document.

Most stakeholders encouraged the ESO to ensure that it has designed upfront a suitably robust framework that will ensure financial stability and appropriate governance in the management of poor performance or company failure that minimises the impact on other market participants and consumers.

Additional points of consideration noted by some stakeholders included sustainability requirements, tender process complexity, flexible financial standing, licence for network solutions, demonstrable ethical practices and corporate social responsibility, gearing, credit rating, debt financing, access to capital, availability of resource (including human capital) and independence from corporate group liabilities.

**ITT (stage 1)**

**21. Do you believe that the range of criteria we are considering at ITT (stage 1) is appropriate and will drive value for consumers?**

Several stakeholders support the current criteria identified.

They suggested that, in circumstances where the ESO does not have a strong understanding of the technical properties of a new solution, an Independent Technical Expert should be used. The ESO should avoid trying to set a solution too early in the process and be aware that solutions and costs will be subject to change.

Further evaluation criteria identified by some stakeholders include environmental and social, bonds, financial model or a TRS revenue model, risks, incentives, assessment, consultation criteria.

Some stakeholders sought further clarity on the following:

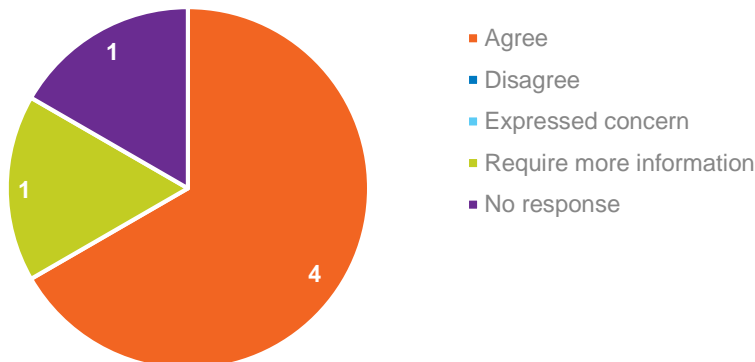
- How technology readiness will be assessed by the ESO
- How the feasibility of construction proposals will be assessed by the ESO given they do not have experience of delivering construction projects.

One stakeholder considered the approach too complicated and believed that the criteria should be quantitative and objective.

ITT (stage 2)

22. Do you agree with our approach for evaluating bids at ITT (stage 2)?

Stakeholder responses:



Several stakeholders agree with the general approach to evaluating bids.

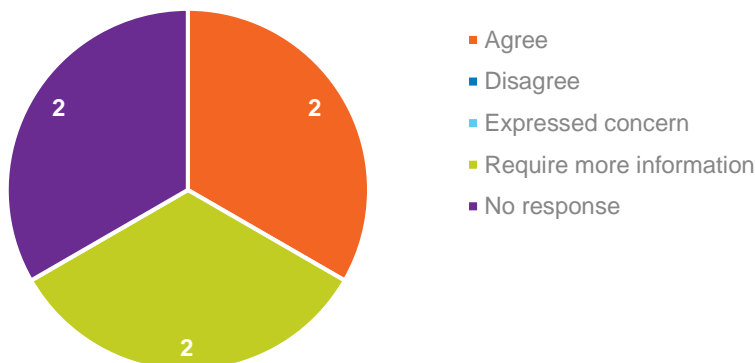
Stakeholders highlight the need for further considerations on clearly defined assessment criteria and weightings.

Some stakeholders have the view that the maintenance proposals should be part of the delivery assessment.

One stakeholder disagrees, believing that the approach favours the TOs.

23. Do you agree with the criteria/features we have proposed to be within the evaluation?

Stakeholder responses:



Several stakeholders agree with the general criteria within the consultation document, while some seek clarity on how this will work in practice. Some areas where more information is required include an indicative timeline, the level of information bidders must provide and the bid evaluation methodology.

Preferred Bidder (PB)

24. What are your views on our current thinking for the PB stage?

Stakeholders generally supported the proposals.

A stakeholder believes that non-network solutions should not be precluded from providing other services to the ESO when they are not needed for the specific tender service.

Stakeholders sought more detail on the project, delivery risks, financial model, incentives, licence requirement for a solution etc. One stakeholder would welcome the closer alignment between CATO and TO licence regimes.

Some stakeholders do not agree that an incumbent TO should require a CATO licence. There was a general agreement that any successful party, whether CATO or contract, must accede the relevant industry codes.



**25. What is your view on the need for a bid bond and what do you believe would be an appropriate value and time period?**

Several stakeholders do not support the requirement for bid-bonds at the point of contract award.

Some suggested that this process can be efficiently managed through the requirement of post-tender milestones.

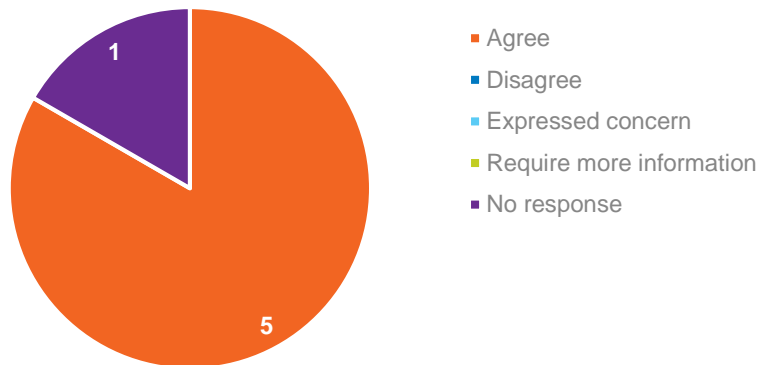
Several stakeholders requested the ESO to review when it expects a bond to be placed during the tender process or post-contract award. Where the successful bidder is not able to deliver, stakeholders seek clarity on the ESO's expectation of what would happen to the project. Typical bid bonds are usually between 5 and 10%.

Some stakeholders stated that the decision should be based on the risks and benefits that a bid bond would cover. Some stated that bid bonds may well prove prohibitive of new entrants, small developers and/or new technologies. One raised the fact that bid bonds are ultimately passed on to customers so should be carefully considered.

**Post tender awards**

**26. Do you agree the tender revenue stream should not commence until successful commissioning and that no payment should be made to the successful bidder prior to this point, except potentially for preliminary works and/or where there is a particularly long solution delivery works programme?**

Stakeholder responses:



All stakeholders were of the view that some revenues should be allowed prior to commissioning.

Several stakeholders support payments to the successful bidder during the construction phase as it would provide competitive financing arrangements, especially for smaller bidders.

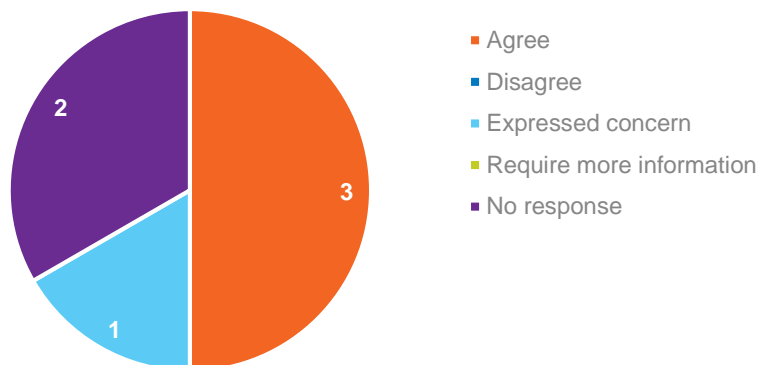
A stakeholder noted that any bespoke or project specific adaptations necessary should only be agreed and implemented following the agreement of all relevant stakeholders i.e. the ESO, TO, commissioning party and other appropriate major stakeholders. This should be linked to preliminary works and construction milestones.

One stakeholder believe that commissioning should be aligned with existing codes.

## Commissioning

**27. Do you agree that the existing industry arrangements in respect of commissioning will be appropriate for early competition with minor adaptations? What adaptations do you believe would be required?**

Stakeholder responses:



Some stakeholders believe that there needs to be wider regulatory improvements to enhance the speed at which TOs can offer customer connections. Small innovative players are often unable to participate in short term requirements. Participants who win tenders should be prioritised over other connections.

Some stakeholders are unclear why commissioning would be different between a late or an early competition project that requires a licence. Exception for adaptations may be considered when a non-network solution is being commissioned.

Several stakeholders agree that all parties involved in operating the onshore transmission system must be held to an identical standard, either via codes or licence. Failure to comply with the requirements of legislation, licences and codes would result in not only cost, but additional penalties and ultimately the potential for a licence removal.

**28. Do you have any views on incentives or penalties in relation to preliminary works and solution delivery, including the impact of commissioning delays on the tender revenue stream / revenue period?**

Some stakeholders believe that any delays caused by the incumbent TO or the ESO should not result in a lower revenue for bidders. Any penalties and incentives that are set should ensure minimal disruptions to consumers and be aligned where possible to existing incentives.

Stakeholders questioned whether incentives and current processes would work as effectively as implied in the consultation document where there are competing priorities between incumbent TOs/Distribution Network Operators (DNO)/OFTOs and CATOs.

Some stakeholders are of the view that the winning bidder should be held to the same standards that the incumbent TOs are.

Some stakeholders believe that explicit incentives are not required in relation to timely and quality delivery of the preliminary works and solution delivery works. There were concerns regarding the ESO's proposal to replicate code requirements across contracts for non-licensee bidders. They commented that there were limited proposals around how the ESO would ensure contractual requirements mirror the code and licence requirements.

Some stakeholders suggested that the ESO's proposals in relation to early competition should closely align with Ofgem's proposals (a suite of three Large Project Delivery mechanisms). This would ensure a level playing field and consistent approach across industry.

**Operation and maintenance**

**29. Do you agree with the proposed potential operational incentive regime for early competition? Are there any topics omitted which you feel should be incentivised and why?**

Some stakeholders believe that the successful bidder should receive full payment if they met their availability commitments and should only be penalised if they fall below this level. Environmental incentives should also be encouraged and evaluated in line with broader policy aims, such as Net Zero ambitions.

Some stakeholders are of the view that the successful bidder should be responsible for new investment and transparent arrangements will be necessary to determine and agree on the appropriate revenue stream adjustment.

Some stakeholders believe that the operational incentive regime for early competition should be limited.

One stakeholder noted that upgrades and modifications should be subject to separate agreement. Unplanned outages should be charged against the availability payments. Environmental performance should be incentivised and penalised.

**30. Do you agree that with minor adaptations the existing industry codes/processes they can incorporate both network solutions and non-network solutions arising from early competition? Are there any fundamental gaps or issues you foresee in relation to early competition?**

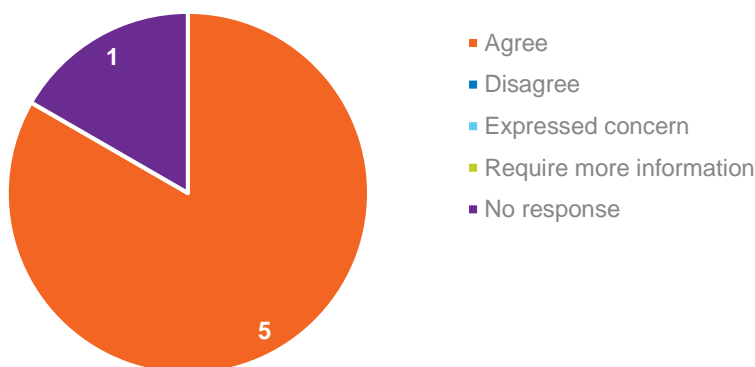
Stakeholders generally agree that the existing codes are suitable but that the adjustments are unlikely to be minor. The ESO was identified as the primary entity to identify and suggest the changes.

Stakeholders noted other frameworks which will require updates including TO and ESO licences and the NOA methodology. One noted that codes covering network and non-network solutions must be aligned.

**Decommissioning**

**31. Do you agree that decommissioning costs should be considered as part of the tender evaluation and that there should be an obligation on the successful bidder to develop a proportionate decommissioning plan and place a form of decommissioning security at an appropriate time?**

Stakeholder responses:



Several stakeholders support the requirement for a decommissioning plan and assumed cost within the tender evaluation.

For some stakeholders, there should be no pre-determined decision between extending contracts and purchasing assets at residual value. The ESO and the successful bidder should be able to come to an agreement to waive decommissioning costs at the end of the contract in the case of the acquisition of the asset by the ESO.

One stakeholder noted decommissioning should not be assumed at any point to be the default option. Although there must be provision for decommissioning if the asset is no longer wanted as well as being nominally life-expired, yet the asset may still have further life trading as an asset separate from the TO.

One stakeholder argued that as there is no licence obligation to decommission on the incumbent TOs or for the onshore portion of OFTOs. It should not be part of early competition.

Two stakeholders were in favour of a decommissioning security. One stakeholder noted that there was no security requirement for interconnectors or OFTOs so that it was not clear why early competition required it. The remaining stakeholders did not comment specifically on the security element of the proposals.



# Next steps

## Next steps

### Phase 2 Consultation feedback

We will host a series of bi-lateral discussions with respondents to the Phase 2 Consultation in order to gain further insights on the submitted responses and address stakeholders' comments and questions.

### Discussion Forum Webinars

We will continue to engage with stakeholders through a series of wider engagement events during September and early October 2020 in order to gain views on specific issues and areas of interest, building on our work to date and planned next steps.

The webinars will be broadly based on the following areas:

- [Roles in Early Competition](#) - give more detail on each of the roles we have considered for early competition and their activities under the current model, at a high level.
- [Heads of Terms and Industry Code Impacts](#) - further consider some of the key potential Transmission Licence and contract terms for successful bidders, as well as what impact the proposed end-to-end process could have on existing licences and industry codes.
- [Risk Allocation and Post-Preliminary Works Cost Assessment](#) - further discuss risk allocation in the end-to-end process with a focus on the post preliminary works cost assessment process.
- [Operational Incentives](#) - further discuss and develop the three proposed operational incentives (related to availability, environment and timely connections) but with a focus on the development of the availability based incentive.
- [Indicative Solution Identification Process](#) - discuss how indicative solutions will be developed prior to the launch of an early competition.
- [Information Provision](#) - review and challenge the proposals for how relevant network information can be shared with all interested parties to support the Early Competition process.
- [ESO Role in Distribution](#) - discuss and provide input into possible role options and scenarios, to help inform a high level.

Stakeholders are invited to sign up for the upcoming webinars using the links above.

### Phase 3 Consultation

Later this year, we will run Phase 3 Consultation to further define the details, with stakeholders' help, of how the ECP will work.