

Early Competition Plan

Phase 3 Consultation: Consultation Summary

December 2020



Welcome

Welcome to our Phase 3 consultation for early competition. This follows on from our Phase 2 consultation published in December 2020 to present further detail and seek your views on our proposed model for early competition. This is an important stage in our process to collaboratively develop the Early Competition Plan ("ECP") and is the final consultation before we submit our recommendations for early competition to Ofgem in Spring 2021. We look forward to hearing your thoughts on the proposals we set out here.

As we look to achieve net zero carbon operation of the electricity system by 2025, we're working with the industry to transform the way Great Britain's electricity system is designed and built. We know the energy transition must be affordable and that competition is vital for encouraging innovation and keeping prices as low as possible. Working with partners from inside and outside the energy industry, we are looking at how early competition can be introduced into developing and running our electricity networks. The means organisations can compete for the design, build and ownership of onshore transmission assets. Early competition will help encourage new ways of working and deliver millions of pounds in savings for consumers.

Stakeholders are instrumental to the development of a successful ECP. We are committed to listening to and addressing your concerns. We asked for feedback on how we could make it easier to engage with our consultations and as a result we have structured this consultation to reflect what we heard. This Consultation Summary sets out the key principles of our early competition model and notable changes from Phase 2. Supporting this, we have developed individual chapters for each of the key areas. These chapters provide greater detail on the reasoning behind our proposals and the options which have been considered.

We have also made it easier for you to give your feedback. You can provide written or verbal feedback. Details of how to provide your feedback can be found in the How to respond section on page 22. We have tried to make questions simpler and have summarised all consultation questions in this document. Relevant questions are also included in each subject specific chapter.

We recognise that this is a complex topic and that there is a lot of information contained in the chapters. In line with stakeholder feedback we have extended the consultation period for this consultation to 10 weeks, closing Monday 15 February 2021.

Thank you for taking the time to engage with us in the development of our ECP. We value your input and hope that you can see how this has helped shape the proposals here. We look forward to hearing from you.

Key Messages

Tender process:

- Projects suitable for early competition need to have certainty, be new and separable and deliver consumer benefits which outweigh the cost of running the competition. We propose this applies to projects of any value. We have identified an illustrative list of projects based on the Network Options Assessment (NOA) 2019/20.
- We propose competitions are run at an early stage, once an initial solution is identified, using a two stage tender process preceded by a pre-qualification phase (see diagram below). While an initial design is provided, bidders will not be tied to it.
- All bidders, including incumbent Transmission Owners ("TOs"), compete for a Tender Revenue Stream ("TRS").

Maintaining competition:

- Retaining competitive pressure post tender award while allowing for necessary changes is a key challenge. We propose fixing some costs, such as equity, margin and overheads and making some underlying project costs subject to a cost assessment process.
- The cost assessment will consider whether expenditure is economic and efficient limited by an upward adjustment cap and an associated performance bond. The cost of debt will be set after the preliminary works stage via a debt financing competition.

Roles and responsibilities:

- New roles will be required to deliver early competition. We set out these roles along with our view that Ofgem are best placed to carry out the Approver and Licence Counterparty roles.
- We are minded to the Electricity System Operator ("ESO") taking on the roles of Contract and Payment Counterparties as these are extensions of roles we currently perform.
- We are seeking further views on the entity best placed to do the Procurement Body role and on how best to manage potential conflicts of interest given current TO responsibilities within the network planning process.

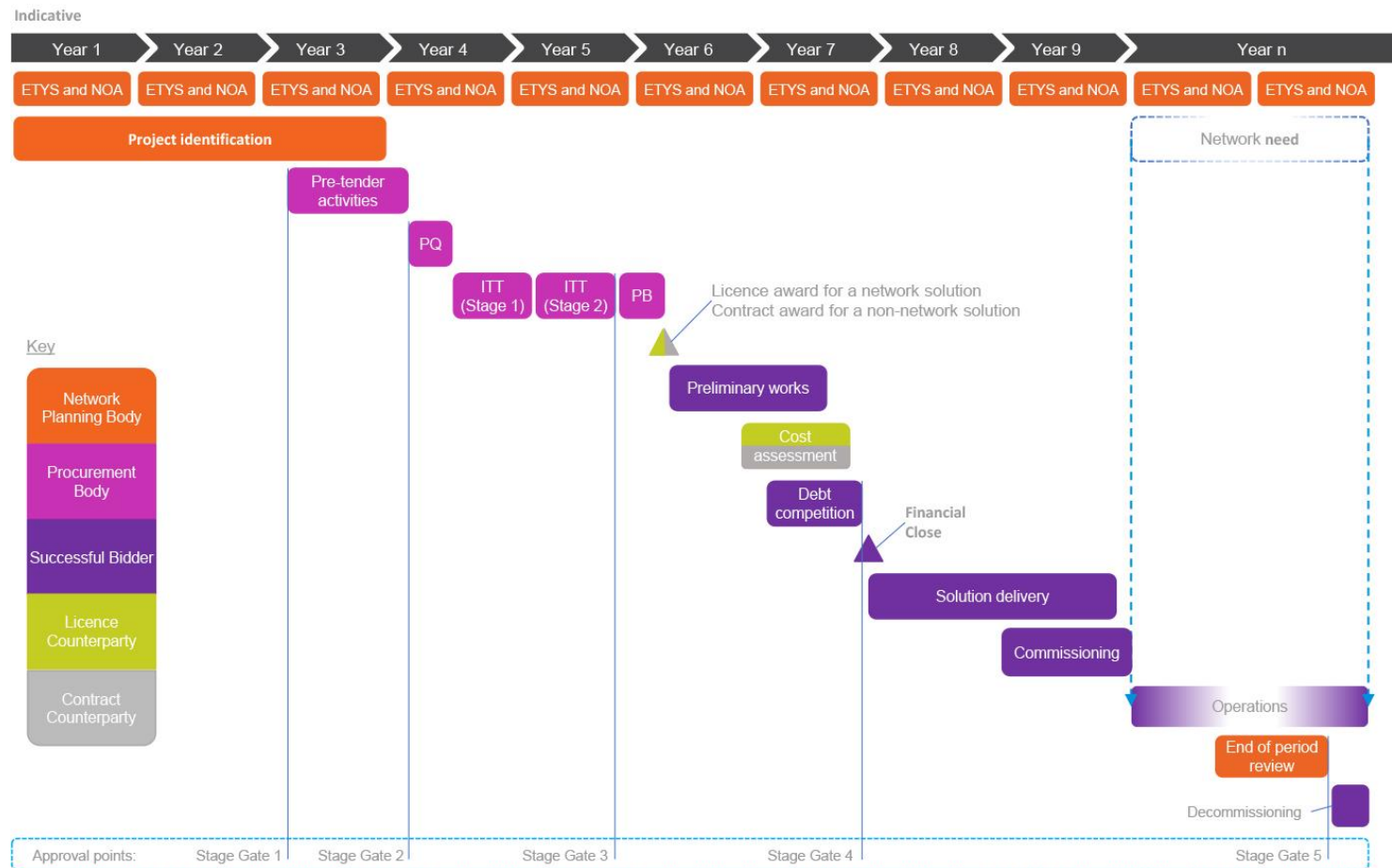
Early competition in distribution:

- We have also been asked by Ofgem to set out what, if any, role the ESO could do for early competition at distribution level.
- Stakeholder engagement to date (including some non-Distribution Network Owner stakeholders) suggests there is currently no role for the ESO. We welcome further stakeholder views on this topic.

Summary positions on each element of our early competition process can be found in this Consultation Summary. Further detail is provided on how we have reached this position, options considered, and stakeholder feedback received in each of the supporting chapters. We welcome your feedback on any aspect of this consultation.

Following this consultation, we will use stakeholder responses to finalise our proposals for submission to Ofgem in April 2021. After receiving the ECP Ofgem will need to carry out several activities before deciding whether to implement early competition. This, amongst other activities, will include consulting on its views on whether introducing early competition would ultimately deliver benefits to GB consumers.

If a decision is made to implement early competition then any changes that are required to licences, codes or frameworks to implement early competition will follow the appropriate formal change processes.



Note: Stages are based on our engagement with stakeholders but are not decided. Timescales are illustrative based on comparable precedents and are likely to vary between projects.

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Introduction

Following our Phase 2 consultation and the feedback we have received we have engaged further with stakeholders through a series of workshops throughout September and October to develop our proposals. This consultation is the next step in developing our Early Competition Plan ("ECP"). It sets out our proposed model for early competition, potential roles and responsibilities of parties and a first indication of the timescales for implementation.

Following this consultation, we will use the feedback we receive to refine our proposals ahead of submission of our ECP to Ofgem at the end of April 2021. This is later than the original timescale for the project to deliver at the end of February 2021. Following feedback from stakeholders on the time required to respond to consultations on such complex areas we extended the project timescales. This consultation is open for 10 weeks, closing Monday 15 February.

Our ECP will set out our proposals for the early competition model, the roles and responsibilities required to deliver early competition and the role of the Electricity

System Operator ("ESO"). It will also set out what is still required to implement the model, including associated timescales and approximate costs. Our proposals, along with our approach to and engagement of stakeholders is subject to scrutiny by our ESO Networks Stakeholder Group. Their role is to make sure our stakeholder engagement is effective and feedback is fairly used to shape our proposals.

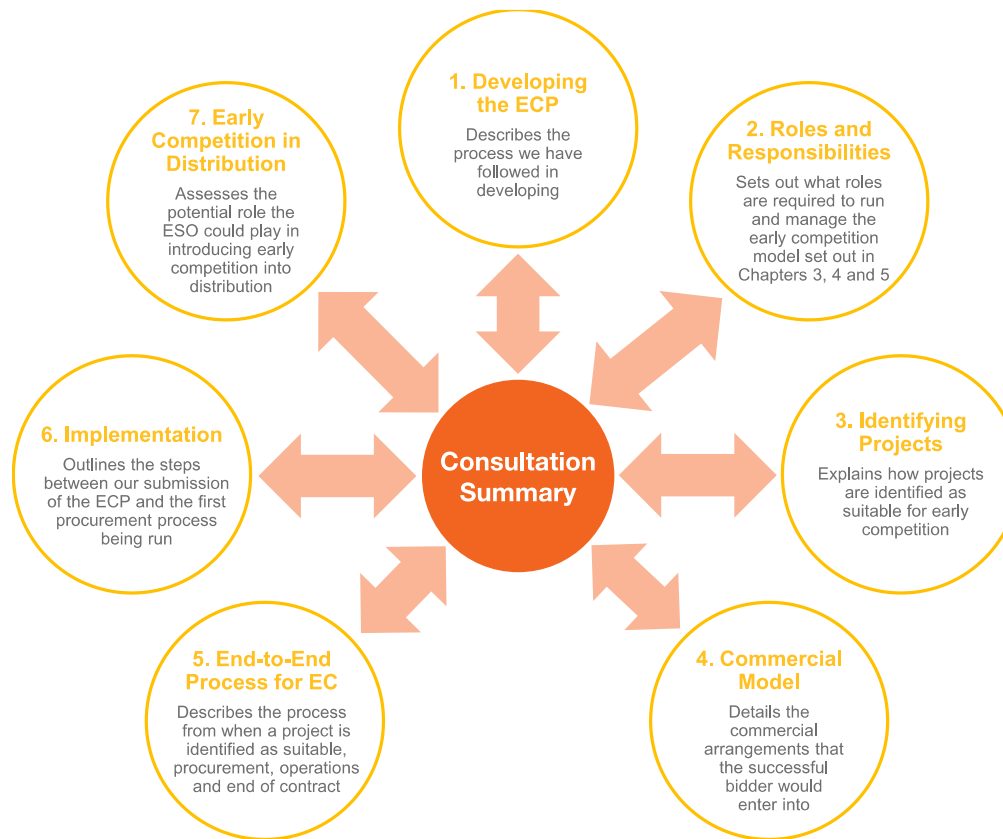
Receiving the ECP Ofgem will need to carry out a number of activities before making a decision about implementing early competition and how and when it should be done. This is likely to include consulting on their views on roles and responsibilities and key aspects of any early competition model. This would include the form of the competition, how that competition would sit alongside other regulatory approaches, and how Ofgem would regulate the competition and its outcome. It would also consult on its views on whether introducing early competition would ultimately deliver benefits to GB consumers.

If a decision is made to implement early competition then any changes that are required to licences, codes or frameworks to implement early competition will follow the appropriate formal change processes. In order to fully implement the early competition process as set out in this consultation legislative changes will be required to introduce competition in onshore transmission. Government is expected to publish the Energy White Paper shortly in which further detail on plans for onshore competition legislation are anticipated.



Consultation Structure

We have designed this consultation to be easier to engage with based on feedback following the previous consultation. This Consultation Summary is supported by 7 chapters plus appendices, each covering a specific area of the ECP.



Please follow the hyperlinks above to select each chapter. They are also all available on our website. We welcome your feedback on all or any of these chapters. The following sections summarise these individual chapters and our proposals for a model of early competition

1 Developing the Early Competition Plan ("ECP")





Stakeholders are key to the development of a successful ECP¹. We have engaged with over 75 individuals from 40 different organisations. This feedback has been instrumental in shaping the proposals which are set out in each of our consultation chapters.

Not all stakeholders want the same thing, so our proposals look to find a balance in proposing a model of competition which is attractive to bidders but protects the interests of consumers. To show that we are listening to stakeholder views, we have compiled all stakeholder feedback we have received and have clearly set out what we have done in response to the feedback as part of the "You said, we did" appendix in Chapter 8.

We have also set up an independently chaired stakeholder group, ESO Networks Stakeholder Group ("ENSG") as part of our project governance. This group, chaired by Dame Fiona Woolf, comprises representatives of impacted stakeholder groups. Its remit is to challenge our approach to stakeholder engagement and to make sure that our proposals are not unfairly biased to any individual stakeholder group.

We are willing to listen and adapt. With the current pandemic we have had to adapt our stakeholder approach to virtual engagement. To make best use of stakeholder's time we have asked for feedback on the engagement sessions we have run to understand where we are and aren't meeting expectations. From this we have identified four key lessons which we are using to improve our engagement.

These principles underpin the type, frequency and structure of our ongoing engagement.

-  Keep our stakeholders in the know
-  Be consistent whilst remaining flexible
-  Be transparent where possible
-  Strive for fair stakeholder representation

Further detail on our stakeholder engagement approach and what we've done to address feedback can be found in the Developing the ECP chapter.

¹ To find out more about early competition please visit our website www.nationalgrideso.com/future-energy/projects/early-competition-plan or view our detailed guide www.nationalgrideso.com/document/173156/download

2 Roles and Responsibilities

Our Phase 2 consultation set out the new roles needed to run an early competition and the parties who could potentially do those roles. We also touched on the role of the Transmission Owner ("TO") related to early competition. Considering the role of the TO led us to introduce a new role - Network Planning Body, as detailed in our [Thought Paper](#) published in September. Further detail on these roles and responsibilities was discussed with stakeholders in our supporting workshops. Feedback to our Phase 2 consultation, thought paper and September workshops has helped shape our proposals set out here.

The roles identified for early competition are:

- **Network Planning Body** - identification of system needs through to the development of possible reinforcement options. It decides on option combinations to be included in the Network Options Assessment ("NOA") process and will make recommendations (together with the Procurement Body) of which projects should be subject to competition. This role primarily relates to the project identification in chapter 3
- **Procurement Body** - design of the procurement structure and process. The role includes development of tender and contractual documents as well as management of the procurement process. It will also have a role in the recommendation of which projects are recommended to Ofgem for early competition. This role relates to activities during the procurement process and the debt competition as set out in chapter 5
- **Licence Provider** - issue the Licence. Following stakeholder feedback and further development of the early competition model this role is now proposed to be absorbed into the Licence Counterparty role
- **Approver** - makes the formal decision to conclude a stage of early competition. This role will provide an oversight throughout the project identification, procurement and post-procurement processes as set out in chapters 3 and 5
- **Licence Counterparty** - manage and monitor any obligations placed on any successful bidder that is issued or has a transmission licence². This role is as set out in our Phase 2 consultation. This relates to the activities during the post-tender period in chapter 5 and the commercial model in chapter 4
- **Contract Counterparty** - manage and monitor any obligations placed on any winning bidder who will hold a contract for any solution not performing the function of electricity transmission (non-network). This relates to the activities during the post-tender period in chapter 5 and the commercial model in chapter 4
- **Payment Counterparty** - manage financial transactions between the winning bidder and the other counterparties. This relates to the activities during the post-tender period as detailed in chapter 5 and the commercial model as set out in chapter 4.

² The Licence Counterparty will also manage and monitor any obligations placed on any other type of licensee (e.g. generators) as a result of an early competition.

We had unanimous agreement from stakeholders that the roles of Approver and Licence Counterparty should sit with Ofgem. We set out in this consultation further detail on the other roles and our updated proposals for the entities best placed to do them³. We also include detail of the role of the Approver. While we believe the role of Approver sits best with Ofgem, and this remains our proposal, we are including further detail on this role to help stakeholders better understand the responsibilities of the Procurement Body and the level of oversight this body would have from Ofgem.

Network Planning Body

- The responsibilities of this role currently sit between the Electricity System Operator ("ESO") and incumbent TOs. The ESO identifies wider system needs, those currently covered by the NOA process based on the Future Energy Scenarios ("FES") and TOs identify needs driven by connections and asset replacement. TOs identify solutions to meet all identified needs and the ESO identifies commercial and operational solutions for NOA based needs
- For early competition we do not propose a significant change to these responsibilities. We are however proposing that the ESO take on a stronger role in challenge and review of TO proposed NOA solutions. This could include the ESO challenging TO options by repackaging them such that they meet the competition criteria, integrating stakeholder options into the overall package of schemes, proposing new options or technologies, or challenging TO delivery dates. This would require additional resource and skillsets in the ESO, such as a high-level understanding of project delivery planning
- Potential conflicts of interest arise because we propose that TOs can participate in competition whilst continuing with their network planning roles. Some stakeholders feel strongly that network planning responsibility should therefore be transferred to the ESO. This represents a significant change in roles and responsibilities and would lose the TO's expertise from the planning process. We think it is more proportionate to ringfence the TO bid preparation teams, so they do not have access to additional information not available to other bidders. We believe this, combined with the ESO's increased challenge of their proposed initial solutions, should provide sufficient mitigation. This is in line with the position Ofgem reached for the late model. We very much welcome stakeholders views on this.

³ This consultation paper proposes that National Grid ESO may be the most appropriate industry participant to perform one or more of the roles that will be required to implement the early competition model. This consultation paper sets out a proposed model. It should not be taken as an indication that the board and/or shareholders of National Grid ESO have consented to carry out specific roles or actions, other than the development of the model as requested by Ofgem. Certain parts of the model, such as the allocation of risk and reward for performing any specific role and the associated limitations on liability have not been fully clarified. When those parts of the model are finalised, and should Ofgem recommend that the ESO fulfil a particular role, the board and shareholders of National Grid ESO would then consider whether it was appropriate and able to take on the particular role or roles.

Procurement Body

- Stakeholder feedback from our Phase 2 consultation and across both workshops on Roles and Responsibilities showed an even split of views as to who should own the Procurement Body role. There was also a view from stakeholders that there could be a mix of parties carrying out activities that sit under the Procurement Body
- To help stakeholders better understand the role and responsibilities of the Procurement Body we also set out in this consultation the role and responsibilities of the Approver body. We also explore the option of a mix of parties conducting the Procurement Body role, as suggested by stakeholders, through the introduction of an independent assurer to oversee the process is conducted fairly.
- Based on our views on the Approver role we are not proposing the introduction of an independent assurer or a mix of entities undertaking the Procurement Body role. We seek stakeholder feedback on our views and also on the entity best placed to perform the Procurement Body role based on the additional information provided. We also explore what resource would be required to carry out this role.

Approver

We believe, supported by stakeholders, that this role best sits with Ofgem. For this role we are proposing a stage gate approach with some oversight activities across the whole early competition process. We set out in the Roles and Responsibilities chapter further detail on these stage gates and the decisions expected from the Approver at each stage.

Contract Counterparty

From consultation responses and our workshops there has been clear stakeholder support that the ESO would be best placed to carry out this role. This aligns with our role in our pathfinder projects. Therefore, we are minded to take on the role of Contract Counterparty, subject to the development of early competition contracting arrangements and the right risk, remuneration and liability provisions.

Payment Counterparty

There is clear stakeholder support from responses to our Phase 2 consultation and our workshops that the ESO would be best placed to carry out this role. We are currently collecting payments on behalf of other transmission network licensees. Therefore, as this role aligns with our current roles, we are minded to take on the role of Payment Counterparty, subject to right risk, remuneration and liability provisions and subject to review following any changes to current charging arrangements.

In this consultation we seek your views on these proposals and further views on the entity best placed to do the Procurement Body role based on the further information provided on the responsibilities for this role and its interactions with other roles.

3 Identifying Projects

There are number of different drivers of network investment. Our aim is to only select projects for competition where there is a real opportunity to deliver consumer benefit. Here we set out our proposals of which drivers should be considered for early competition and the criteria that individual projects would need to meet.

Criteria for competition

We are not proposing significant changes from our Phase 2 consultation position. The criteria we are proposing to use to identify projects suitable for early competition are:

- **Certainty of need** – Generally projects should only be competed if they are required in at least two Future Energy Scenarios ("FES"). This is to help provide greater confidence that they will continue to be needed
- **New and separable** - The new and separable criteria are established late model criteria. We do not intend to propose any changes to these, and
- **Cost benefit analysis ("CBA")** - An individual CBA considering cost and delay risk of running a competition against the estimated benefits assessed through market appetite.

We continue to believe that there is no minimum value of project at which competition can't deliver value. Until we have further learnings from our pathfinders, we feel there could be potential to get value from relatively low cost projects. We note the feedback from Transmission Owners ("TOs") that this may hamper business planning. However, we believe that this risk is mitigated as there are unlikely to be many low cost projects that would also meet the new and separable criteria. It would also be mitigated further by the proposed individual project cost benefit analysis.

The types of project that would be suitable for early competition have been identified from the 2019/20 Network Options Assessment ("NOA") and are included in the Identifying Projects detailed chapter for illustrative purposes.

Project identification process

Our position remains that we would launch a competition at the "early" stage (after initial solution development) rather than "very early" stage (before initial solution development) to reduce the complexity of the tender process. As an initial solution will have already been developed this will be used to help define the tender specification and be provided to bidders. Bidders will be able to submit variations on the initial solution provided it meets the same needs.

While we are proposing that alternatives to the initial solution would be accepted as part of any tender, this process will begin to narrow down the scope of alternative options. We are therefore exploring ways in which stakeholders could input into the initial solution development process to make sure that as wide a range as possible of solutions are considered.

This consultation sets out the options we have considered. Of the options our preference is to further develop the [Interested Persons Option process](#), which was introduced in the NOA process this year.

We are seeking your views on whether this is the right approach and on what possible enhancements should be.

Drivers of network investment need

For drivers of network investment, our main focus of the project identification process is based on NOA. We have also set out below how non-NOA driven projects (connections, compliance, asset health, voltage and stability) might be identified and any additional considerations that may be needed.

1. Connections

Our RIIO-2 proposals intend to bring connections wider works within scope for NOA and these projects would be captured through NOA. For connections enabling works, we propose that connections with multiple parties dependent on the works are most suitable as long as there is time to do so without affecting connections dates.

2. Compliance

We propose that TOs should be required to report compliance driven investment to the Electricity System Operator ("ESO") for consideration for competition. Projects would only be competed if, either, there is sufficient time to do so without causing a compliance breach, or if Ofgem agree to a derogation.

3. Asset replacement

Our RIIO-2 proposals intend to bring some large asset replacement schemes into scope for NOA. These would likely be the most suitable for early competition as they are cases where alternative options may be available. TOs could also be required to highlight to the ESO any asset replacement projects that could be suitable for competition that don't go through NOA. Suitable projects are likely to be rare as most won't be 'new or separable'.

4. Voltage and stability

Our pathfinders currently compete voltage and stability needs. We propose that, should early competition be introduced, the two processes should be merged wherever possible to provide consistency for bidders and that we will continue to take learnings from the ongoing development of both processes. However, it will be important to make sure that the procurement processes remain proportionate to the scale and nature of the project being tendered.

4 Commercial Model

Our aim is to develop a commercial model that protects consumer interests and adequately balances market attractiveness for potential bidders. Not all stakeholders agreed with every element of the commercial model set out in our Phase 2 consultation. Following consideration of the alternative options proposed and further stakeholder engagement our proposals include more detail on areas such as risk allocation and how consumers are protected in the event a solution which wins the tender subsequently fails to deliver.

Revenue

We propose a Tender Revenue Stream ("TRS") model as it enables a wide range of companies to participate and for direct comparability between bids. It also protects the consumer for the duration of the licence or contract. The revenue period is 'need dependent' and would be set by the Network Planning Body prior to a tender launch and for up to a maximum period of 45 years. We also propose indexing a proportion of the TRS to achieve a natural hedge.

We propose indexing the TRS by CPIH in line with the general move in electricity regulation.

At the end of the revenue period we expect four options with a combination of the options being possible:

- 'Expire' • 'Extend' • 'Re-Tender' • 'Decommission'.

We are not currently progressing a fifth option of 'Transfer'. We think the successful bidder should remain responsible for their solution at the end of the revenue period and any process to transfer that solution to a third party at the end of the revenue period would add significant complexity.

In respect of 'Extend' we expect that the revenue stream for any such extension will need to be solely for reasonable operations and maintenance costs plus a reasonable margin. Any extension would need to be conditional on compliance with the procurement rules in effect at the relevant time.

Costs

We propose that at the point of tender award, the cost of equity, overheads and margins are fixed. The cost of debt (and so gearing) and underlying costs remain adjustable via pre-defined mechanisms. These are envisaged to be a Post Preliminary Works Cost Assessment ("PPWCA") and a debt financing competition.

The PPWCA will be undertaken by the Licence Counterparty or Contract Counterparty with the support of the Network Planning Body and the Procurement Body. The process will identify and allow TRS adjustments in accordance with pre-published assessment methodology and risk allocation guidance. There will be a maximum permissible upward TRS adjustment (likely as a % of bid TRS) with the appropriate cap to be set by Ofgem. We are not proposing a downward adjustment floor. We are also proposing a requirement for a performance bond (or equivalent form of acceptable security) up until the conclusion of the preliminary works stage.

Towards the end of the preliminary works period the successful bidder will run a debt financing competition (with oversight from the Procurement Body) to finalise the cost of debt and gearing. Any difference (positive or negative) between the cost of debt and gearing assumptions made in the tender process and the actual position after the debt competition will be for the benefit of or borne by consumers. We propose that the Procurement Body will provide cost of debt and gearing assumptions to be used by bidders in their bids.

Needs Change

In the event of the disappearance of the need after the conclusion of the tender process, we expect the successful bidder being paid their reasonably incurred sunk costs. For the preliminary works period this would be reimbursement of project costs economically and efficiently incurred (including those efficiently committed but not yet incurred). For the solution delivery / construction and operating period, the relevant contractual or licence provisions would apply as set out in the Heads of Terms in Chapter 8. Where a need change occurs post tender launch but ahead of tender award and the Procurement Body wishes to cancel or relaunch a tender, bidders would be expected to absorb their own costs.

Provider of last resort

In the event of an unsuccessful tender process or non-delivery post-award, we believe that 'provider of last resort' arrangements will be required. For network solutions, our preference is for the "Offshore Transmission Owner ("OFTO") of Last Resort" provisions to be extended to incorporate relevant "Competitively Appointed Transmission Owner ("CATO") of Last Resort" provisions. We do not believe that these arrangements are appropriate for non-network solutions. For non-network solutions we propose to employ enhanced risk management measures such as enhanced monitoring or enhanced contract terms.

Further detail on our consultation proposals, along with specific consultation questions can be found in the Commercial Model chapter.

5 End to End process for early competition

Our end to end process for early competition includes the tender process and the post award processes. Stakeholder feedback on our proposals outlined in Phase 2 were broadly in agreement, noting that more detail was required in certain areas. In our Phase 3 consultation we build on the initial positions, focussing on the tender and post award processes.

Tender Process

The design objective for the tender process is to maximise value for consumers by allowing market forces to drive innovation and efficiency. Following our Phase 2 consultation stakeholder interest in this area was around how we would narrow down the number of bidders from Invitation to Tender ("ITT") stage 1 to stage 2, the need to ensure equitable treatment of network and non-network solutions and to facilitate innovative approaches. These are addressed as part of our Phase 3 consultation.

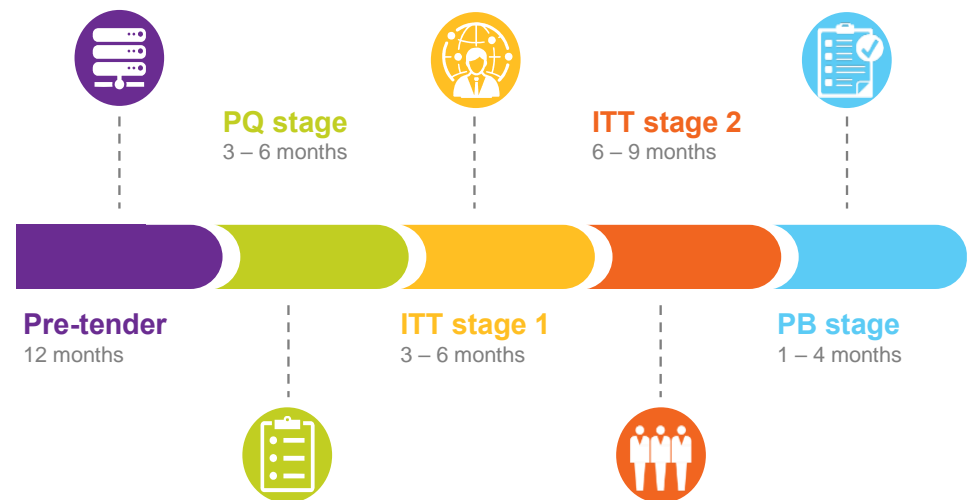
ITT (stage 1)

The aim of ITT (stage 1) is to facilitate innovation in the market whilst minimising bid costs and to down-select the number of bidders which progress to ITT (stage 2). At ITT (stage 1) bidders will submit a conceptual design which needs to demonstrate it meets the need and is a suitable technology. We propose four criteria for evaluation of bids which are equally weighted. These criteria are:

- How solution meets need
- Risk to network reliability
- Deliverability
- Environmental or social impacts

In this consultation we set out more detail of how each criterion will be assessed. Early competition should deliver benefits to consumers through

Figure 1: End-to-end process



Stakeholders are broadly supportive of proposals but requested further detail about how assessment would be done and how solutions would be selected for consumers at this stage.

efficiency and innovation. It is not however, the mechanism by which new, unproven, technologies are delivered. We expect technologies competing

in the competitions to have a GB or global precedent, equivalent to a Technology Readiness Level ("TRL") of 8/9 or equivalent.

A key change to our Phase 2 position is that we no longer require high level costs at this stage. Having considered a range of options we propose a pass/fail approach to narrowing bidders to progress to ITT (stage 2). This will be against the four criteria listed based on a minimum threshold score. The level of uncertainty regarding project detail at this stage does not make cost a sufficiently robust criteria to assess bids against.

ITT (stage 2)

This is the final assessment stage of the tender process for early competition. It aims to select a single preferred bidder to progress to the preferred bidder stage.

In Phase 2 we set out a quantitative and qualitative assessment framework. While stakeholders are broadly supportive of the proposals, they requested further information on the assessment framework. We set out in this consultation greater detail how we propose to assess bids.

- **Commercial Evaluation** - We expect bidders to submit a financial model they have developed to calculate their indicative Tender Revenue Stream ("TRS") based on two sets of inputs. These are bidder assumptions determined by each bidder for their solution and bid assumptions set by the Procurement Body. Bidder submissions should include all costs which a solution is subject to, for example any connection or operational energy costs, and

- **Technical Evaluation** - This will score each element between 0 (no evidence) and 5 (high quality evidence) on the documents which are submitted to support the bid proposal. These documents will cover deliverability and delivery plan, supply chain strategy, contracts (engineering, procurement, construction, operations and maintenance) financing strategy, planning and consenting strategy, environmental impact and approach to costing⁴.

Selection of preferred bidder

In Phase 2 we did not provide detail on how a single bidder would be selected. We propose integrating technical scores based on plans submitted and the TRS. This results in a Technical Adjusted TRS. The bidder with the lowest technical adjusted TRS is selected and will progress to the preferred bidder stage. Weightings of the individual components would be set by the Procurement Body ahead of each tender.

Preferred bidder stage

This is the final stage of the tender process. It is the stage when a bidder is informed they have become the preferred bidder. At this stage bidders can challenge the tender process and involves activities such as licence / contract award, code accession and performance bond.

In Phase 2 we set out several steps which must be undertaken to finalise the contract/licence, however stakeholders felt there was too little information to comment. In this consultation we set out five new areas for consideration. These are the tender challenge process, checks undertaken by the Approver, approval of the preferred bidder, standstill/judicial review period and the submission of a connection agreement application.

⁴ Details of expectations in each area are set out in Chapter 8.

Post Tender Award

Post-tender award policy and process need to ensure industry arrangements remain effective in respect of both network solutions and non-network solutions, for example in respect of commissioning and compliance. We have broad stakeholder support for the proposals set out in our Phase 2 consultation. In this consultation we set out more details on all aspects of the post tender award process.

Tender Award

Following a tender process, the successful bidder would either win a contract or a transmission licence (depending on the solution type). This will occur at the point of tender award. There is an aim to align the connection and licence granting processes with the tender process. That means that at the point of tender award all relevant licences and contracts can be concluded. Primary legislation is required in respect of granting a Competitively Appointed Transmission Owner ("CATO") Licence. Industry codes will need to be amended to accommodate CATO licensees. Our expectation is that CATOs will fundamentally be onshore Transmission Owners ("TOs") in the codes and standards but in some cases arrangements which are more aligned to the offshore regime will be required.

Preliminary works / Construction

- We believe that the start of the TRS on successful commissioning provides the strongest incentive to deliver solutions on time and to the required standard. We believe there is merit in considering fixed milestone-based payments for preliminary works
- Responding to stakeholder concerns about the potential impacts on the quality of stakeholder engagement:
 - We are also recommending adding in a reputational stakeholder engagement incentive for the preliminary works phase.
 - We expect industry standard commissioning and compliance procedures to be followed for both network solutions and non-network solutions. Where projects are delivered late (regardless of cause) we propose the TRS would be reprofiled over the remaining revenue duration. Bidders would only likely be held whole where delay is for an acceptable reason. In any case bidders should not benefit from the delay.

Operation

- We are still proposing a main availability incentive during the operational phase, supported by environmental and timely new connections incentives. A change from our Phase 2 position is that we are no longer considering some form of innovation gain share mechanism. We agree with some stakeholder feedback that this is likely challenging in practice in the context of wider model proposals, and
- A further update from our Phase 2 consultation position is that we are also now proposing for there to be security associated with the availability incentive towards the end of the initial revenue period. We have introduced this to ensure that there are sufficient performance assurance measures in relation to availability (and so asset health) towards the end of the initial revenue period.

Decommissioning

- We propose that bidders will need to submit and maintain decommissioning plans and the estimated cost will be included within the TRS. We expect that decommissioning plans should include information on end of revenue period decommissioning assumptions, for example what is assumed in terms of residual value, and
- Following stakeholder feedback, we have amended our view on securities to narrow the scope. The scope is now to only provide assurance that decommissioning activities and disconnection is sufficient to not adversely impact the transmission system. We also propose that the availability incentive security proposed for the end of the operational period can be extended to cover decommissioning security. This removes the need for separate decommissioning security and the resulting cost to consumers.

Further detail on our early competition end to end model processes, along with our consultation questions in this area can be found in the End to End Process for Early Competition chapter.

6 Implementation

In this consultation we consider what likely implementation planning activities will be needed to implement early competition and their timing and sequencing. We also include our initial views on whether any of the early competition model proposals could potentially be implemented prior to the expected onshore competition legislation. We welcome your views on implementation both in response to our questions and more generally if you have further feedback or suggestions.

The implementation plan will set out the activities required to develop the early competition proposals set out in this consultation into an actionable process. This includes legislation (both primary and secondary), facilitative licence and code changes, substantive industry code changes, capacity and capability development for entities taking on the new roles identified for early competition and review and amendment to network planning processes. There will also need to be detailed development of tender process documentation including assessment methodologies for competition criteria and the post preliminary works cost assessment in addition to draft licences and contracts.

If a decision is made to implement early competition then any changes needed to licence, codes or frameworks to implement early competition will follow the appropriate formal change processes.

We have set our initial views on the timing and sequencing of implementation planning activities. We have assumed that the trigger for

implementation activities to start will be the later of the decision to implement a form of early competition and both the primary and secondary legislation being available.

Our current estimate is that the first early competition process could start between 2023 to 2025 (inclusive).

This assumes that both an Ofgem decision to implement early competition and onshore competition legislation are in place mid-to-late 2021 and that there is then an 18-24 month implementation period.

Early competition prior to Onshore Competition Legislation

Our current proposals assume that the required legislation will be in place from the outset and that such legislation will appropriately facilitate our proposals. While some of the model can potentially work without new legislation being in place some of it is expected to require new legislation. Much of what might be possible without legislation being in place is already being considered and undertaken via our pathfinders. Our current view is that our proposed model should only be implemented once the appropriate legislation is in place and prior to that point we should look to our pathfinder programme as the appropriate form of early competition.

Further detail on our implementation plan is included in the Implementation chapter. We welcome your feedback on this initial view, particularly regarding the activities and estimated timescales which we will use to build our final implementation plan.

7 Early competition and Distribution

Part of Ofgem's ask of the Electricity System Operator ("ESO") to develop an Early Competition Plan ("ECP") was a request to provide a view of what role the ESO could play in early competition at distribution level. This topic was not covered as part of our Phase 2 consultation as we wanted to test our model proposals for early competition for onshore transmission first with stakeholders. Following publication of our Phase 2 consultation we have been engaging with distribution stakeholders through the Energy Networks Association ("ENA") and via wider industry workshops.

Ahead of understanding whether there is a role for the ESO in distribution level competition we have first sought to understand whether there are any blockers to applying a similar model of competition at distribution level. Feedback from stakeholders has been that the model can be applied and that the same roles would be required to deliver early competition as at transmission. We have also asked for stakeholder views on the different entities that could undertake those roles and whether there were any other roles which the ESO could play.

We had strong stakeholder feedback that Ofgem is best placed to undertake the Approver and Licence Counterparty roles, as is the case at transmission level. For the roles of Network Planning Body, Procurement Body, Contract Counterparty and Payment Counterparty there was a strong view from stakeholders (workshops had equal representation of DNO and non-DNO organisations) that Distribution Network Operators ("DNOs")/Distribution System Operators ("DSOs") would be best placed to undertake these roles. Non-DNO stakeholders expressed some concern that there could be a conflict of interest if the DSOs in ED2 are an integrated DSO/DNO, with the DNO arm taking part in the competition. However, it was generally acknowledged that the future relationship between DSO and DNO is not known at this point. There was also a view expressed that due to the perceived complexity and cost of the other options, the risk of conflict of interest might be better mitigated by stronger oversight by Ofgem. Overall, stakeholders so far do not support the creation of any additional roles supporting early competition in the distribution sector such as best practice coordinator or auditor. Generally, the feedback has been that there may be some value in these roles, but that existing mechanisms can accommodate the activities and are the preferred option.

We seek your feedback on these views and on whether there is a role for the ESO in early competition at distribution level.

8 How to respond

Our consultation closes on 15 February 2021. You can respond to us by writing to us either by email or using the [proforma](#), arranging a bilateral meeting, or at one of our workshops. Please share your views on any aspect of this consultation. To help guide you we have highlighted questions throughout the accompanying chapters. These questions are also summarised in the next section.



Written feedback

You can email us at box.earlycompetition@nationalgrideso.com either using the proforma on our website or put your thoughts in an email. For either please can you confirm how you would like your response to be treated.

Strictly Confidential	Do not share feedback or company name.
Confidential	You can publish the response but not mention company name or industry.
Partially Confidential	Company name to remain confidential but industry can be named.
Public	Happy for full response to be made public.

When we have collated all feedback, we will publish the output on our website. This feedback will be considered in formulating our recommendations we will be submitting to Ofgem in April 2021.



Workshops

We are running various workshops during the consultation window to enable you to ask any questions or clarify any points. You can verbally feedback at one of these sessions, or we can arrange a bilateral meeting to enable you to discuss your feedback with a member of the team.

The launch webinar and deep dive sessions for our Phase 3 consultation launch will be recorded and uploaded onto our website for future reference.

[Launch webinar](#) (15 December)

Deep dive question and answer sessions:

- Commercial Model and Model Implementation
[25 January](#) and [1 February](#)
- Identifying Projects and End to End Tender Process
[27 January](#) and [2 February](#)
- Roles and Responsibilities and, Early Competition and Distribution
[28 January](#) and [3 February](#).

Any feedback received verbally will be treated as if submitted in writing and made public unless stated otherwise.

9 Summary of consultation questions

We welcome feedback on any or all of the proposals we set out in this consultation. The complete list of consultation questions is set out below, grouped by accompanying chapters. Feedback can be provided either in writing by email or through use of our [proforma](#) or verbally through one of our feedback webinars or a bilateral meeting.

Roles and Responsibilities

1. Do you agree with the activities of the Approver we are proposing? Please tell us why.
2. What do you think the checks, that make up the other activities, should look like? Should they be a formalised process?
3. Who do you think is the most appropriate party or parties to perform the Procurement Body role?
4. Taking into consideration the role of the Approver, do you think an Independent Assurance activity is needed?
5. Do you agree with our position on the Contract Counterparty role? Please tell us why.
6. Do you agree with our position on the Payment Counterparty role? Please tell us why.
7. Do you agree with our proposed approach to conflict mitigation?
8. Do you agree with the key differences between early competition and these case studies? And do you agree that the key differences would limit the lessons that can be learnt for the purposes of developing the model for early competition?

Identifying Projects

1. Do you agree that only competing projects that appear in at least two FES scenarios will provide sufficient confidence that the project will go ahead?
2. Do you agree with our proposed approaches for different drivers of network investment? Are there ways single party connections could be identified as having sufficient certainty to compete?
3. Do you agree that continuing to develop the Interested Persons Option process is the best way to engage stakeholders in initial solution design?

Commercial Model

1. Do you agree with the partial indexation of the TRS and the adoption of CPIH as the index? Why?
2. Which of the options for extending the revenue period do you think are most appropriate? Why?
3. Do you agree with the preferred option of a fixed payment to the successful bidder upon the delivery of key milestones during the preliminary works period? Why?
4. Do you agree with our revised views and preferences in respect of the Post Preliminary Works Cost Assessment, Performance Bond and Income Adjusting Events? Why?
5. Do you agree with our preferred option regarding margins and overheads? Why?
6. Are there any additional measures a Procurement Body could take to further drive value for consumers in securing debt finance?
7. Do you agree with our current preferred option with regards to equity? Why?
8. Do you agree with our views on indexation? Why?
9. Do you agree with our updated views on licence/contract and industry codes? Why?
10. Do you agree with our views on need change or disappearance? Why?
11. Do you agree with our views and preference in respect of the 'provider of last resort' arrangements? Why?

End to End process for early competition

1. Do you agree with our preferred position on pre-tender activities? Please explain your answer.
2. Do you agree with our preferred position on impact studies?
3. Is there anything in our approach to sharing network information that you believe is unworkable? If yes, please provide details?
4. Do you agree that individual pre-submission reviews should not be offered to bidders during the tender process if the clarification question process is in place?
5. Do you agree with our preferred position on the Pre-Qualification assessment and process? Please explain your answer.
6. Do you agree with our preferred position on Invitation to Tender stage 1 assessment and process? Please explain your answer.
7. Do you agree with our preferred position on Invitation to Tender stage 2 assessment and process? Please explain your answer.
8. Do you agree with our updated views in respect of late project delivery? Why?
9. Do you agree with our updated views on the preliminary works / solution delivery incentive regime being proposed for early competition? Why?
10. Do you agree with our updated views on the operational incentive regime being proposed for early competition? Why?
11. Do you agree with our revised views and amended preference in respect of decommissioning securities? Why?

Implementation

1. Do you think Table 1 is a comprehensive list of high-level implementation plan activities? If not, what has been omitted?
2. Do you agree with our proposed timing and sequencing for implementation plan activities? If not, what would you change?
3. Do you agree with the 'potentially advanceable' implementation plan activities? If not, what would you change?
4. Do you agree with our views on early competition prior to early competition legislation? Why?

Early competition and Distribution

1. Is there any issue with the high-level early competition process being developed that means it could not be used for distribution sector needs? If yes, please specify the issue(s) and why they make the process unusable.
2. Which party is best placed to perform each of the key roles at distribution level? Where a third party is chosen please specify who you think this could be and why?
3. Should any of the additional roles be created as specific roles? If yes, please set out who you think is best placed to perform the role and why?



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