

By email to: [futuresupply@ofgem.gov.uk](mailto:futuresupply@ofgem.gov.uk)

Neil Barnes  
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Consumers & Competition  
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9 Millbank,  
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21 December 2017

Dear Neil,

**ELEXON's response to Ofgem's call for evidence on future supply market arrangements**

We welcome the opportunity to respond to Ofgem's call for evidence on future supply market arrangements. We believe it is the right time to question how the regulatory approach, code governance regime and the energy codes need to change to unlock the benefits of innovation and technology to our customers and the end consumer. The potential contractual relationships the consumer will have in future with both existing/new energy supplier(s), new service/technology providers, will require radical and strategic change to the energy market arrangements. We agree that it is right for Ofgem to call for evidence to gain better understanding of these complex issues and work out a way to unlock these benefits. We agree with the theme of the consultation and that there is a need for a top down revolution in the regulation of the energy industry and we support Ofgem in driving this revolution.

In fulfilling our role as manager of the Balancing and Settlement Code (BSC), we routinely work with existing and potential new parties to help them understand the BSC arrangements and how it interacts with their evolving/new business models.

In addition to supporting their day-to-day operational interaction with the BSC, we are working with industry to improve the BSC and facilitate innovative business models and technologies. For example, ELEXON recently successfully sought the BSC Panel's approval to raise BSC Modification [P362](#) 'Introducing BSC arrangements to facilitate an electricity market sandbox'. This initiative will allow the BSC Panel to give Parties temporary derogations from BSC requirements, which will enable pre-competitive or proof of concept testing for innovative products/business models in the live BSC Settlement environment. We note that we are the only code administrator so far to follow Ofgem's lead in the development of a sandbox.

In support of the above initiatives, we want the BSC to be an enabler (not a barrier) to the benefits of innovation, and are working with Ofgem and industry to improve the BSC and facilitate innovative business models and technologies. For example, we have provided expert advice to Ofgem in their Innovation Link and Sandbox programmes to help understand where barriers exist today to innovation.

Additionally, as part of Ofgem's Significant Code Review, ELEXON is, through an expert group, leading on the development of the Target Operating Model (TOM) for market wide Half Hourly Settlement (HHS). We believe HHS to be a fundamental enabler for development of innovation, and therefore key to unlocking the benefits of innovative concepts. One crucial design principle is to ensure the TOM is flexible (not a barrier) for new parties who wish to offer services to the consumer, e.g. multiple suppliers, aggregators, EV charger providers, etc.

The views expressed in this response are those of ELEXON Ltd, and do not seek to represent those of the BSC Panel or Parties to the BSC.

If you would like to discuss any areas of our response, please contact me on 07918 767 302 or by email at [justin.andrews@elexon.co.uk](mailto:justin.andrews@elexon.co.uk) .

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Justin Andrews". The signature is fluid and cursive, with a horizontal line underneath the main body of the signature.

Justin Andrews  
Head of Design Authority, ELEXON

Attached: ELEXON Responses to Annex 2 - Call for Evidence

## ELEXON RESPONSES TO ANNEX 2 - CALL FOR EVIDENCE

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### **Topic 1 - Guiding criteria to evaluate a successful supply market**

**Q1** *What are your views on the above criteria? Are there other criteria that should guide our assessment of current and possible future market arrangements?*

We broadly agree with the proposed criteria with the observations below.

#### **Regulation, Governance and Codes**

Smart, agile regulation will always be required - We believe that a regulated market will continue to be necessary to ensure reliable, affordable energy supplies to all consumers. Smarter regulation and governance should be encouraged in order to unlock benefits of innovation through smarter systems and smarter markets. Recently at the Smart Futures Forum, Dermot Nolan referred to regulation needing to be ready for revolution. We agree with this and we believe this approach would need to apply holistically to all elements of the energy community, top down from policy, regulation, energy systems and markets. Importantly, this should also include improvements to the way that changes to the codes (and supporting processes, systems and data) are raised, assessed, approved and implemented in order to allow a more agile way to implement change in a timely manner (and therefore unlock quicker any benefits from innovation) and we at ELEXON have been suggesting this for the last 18 months (see our briefing note on Code Governance Reform LINK and more generally our 2018/19 Business Plan).

Change should benefit all - All regulatory changes should be designed to unlock the benefits for 'GB plc' and should not seek to pick winners and losers, nor to promote a particular business model to the detriment of other business models.

Clarification of policy/direction required - Policy guidance is needed to define the direction of travel of the market. The infrastructure, laws, regulations and market rules all currently revolve around the Supplier Hub model. Fundamentally different market structures are likely to be needed for an industry that develops as an innovator friendly Supplier Hub, to one that develops into distributed generation and peer to peer trading with a small amount of high voltage interconnection between the distributed generation and small local networks. For this reason greater strategic direction is required from BEIS and/or Ofgem.

#### **Data Availability, costs and Transparency**

Ensuring data is available - In order to promote innovation on a level playing field, anonymous or aggregated energy volume data could be available to all potential market participants at the lowest possible spatial and temporal granularity. We note that data protection regulations, including the recent European General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679), potentially make it difficult to access suitably granular meter data. ELEXON are working with Ofgem on potential approaches to meet the GDPR requirements as part of the HHS design work.

All service providers (who get benefits for their service) to contribute to costs of a service - We agree that costs of operating the system should be recovered. We believe that all consumers and wider market participants should pay their share of services they use. This could be based on the value they get from the system and not the volume of energy they transmit over the system. For example, a participant that mostly does not take energy from the market, but which relies on the market to be available to provide energy should their normal non-market source of energy not be available should still contribute to the cost of the market operation.

Transparency - We believe that the management of risk, and the associated costs, should be transparent, with all users able to identify and understand the charges they pay in relation to risk management. In general the cost of managing risk should be socialised. However, where an individual or organisation chooses to take on higher than normal risk, they should be rewarded for this (e.g. insecure connections). Similarly where an individual or organisation chooses a course of action that places additional risk on the wider system they should pay for the additional risk (e.g. complex options trading that may result in an organisation going bankrupt, placing their responsibility to supply their customers on others).

## **Topic 2 – Barriers to innovation**

***Q2** What are the most significant barriers to disruptive new business models operating in the retail market? Please draw a distinction between regulatory barriers and commercial barriers (e.g. there may not be enough potential consumer demand to justify market entry).*

### **Regulation**

Now is the time for change - We believe it is the right time to question how the regulatory approach, code governance regime and the energy codes need to change to unlock the benefits of innovation and technology to our customers and the end consumer. The potential contractual relationships the consumer will have in future with both existing/new energy supplier(s), new service/technology providers, will require radical and strategic change to the energy market arrangements. We support Ofgem's call for evidence to gain better understanding of these complex issues and work out a way to unlock these benefits. We agree with the theme of the consultation that there is a need for a top down revolution in the regulation of the energy industry and we support Ofgem in driving this revolution.

### **What ELEXON is doing already to help**

In addition to supporting their day-to-day operational interaction with the BSC, we are working with industry/Ofgem to improve the BSC and facilitate innovative business models and technologies. For example, ELEXON recently successfully sought the BSC Panel's approval to raise BSC Modification [P362](#) 'Introducing BSC arrangements to facilitate an electricity market sandbox'. This initiative will allow the BSC Panel to give Parties temporary derogations from BSC requirements, which will enable pre-competitive or proof of concept testing for innovative products/business models in the live BSC Settlement environment. We note that we are the only code administrator so far to follow Ofgem's lead in the development of a sandbox.

Other examples of where we are supporting innovation include the advice we provide new market entrants to help them understand the arrangements and their obligations, and we have seen 65 new Suppliers accede to the BSC in the past year.

The importance of Half Hourly Settlement - ELEXON believes that half hourly settlement is needed to unlock the benefits of smart meters. As part of Ofgem's Significant Code Review, ELEXON is, through an expert group, leading on the development of the Target Operating Model (TOM) for market wide Half Hourly Settlement (HHS). We believe HHS to be a fundamental enabler for development of innovation, and therefore key to unlocking the benefits of innovative concepts. One crucial design principle is to ensure the TOM is flexible (not a barrier) for new parties who wish to offer services to the consumer, e.g. multiple suppliers, aggregators, EV charger providers, etc.

### **Potential BSC improvements**

Splitting single meter data between multiple suppliers - Current BSC arrangements allow for splitting of data across multiple suppliers but only by fixed block or percentage (by Gate Closure). The innovative nature of some future models suggests that a more dynamic way of splitting data could be required. Furthermore, ELEXON agrees that, although this does allow supply at a single supply point

to be allocated between multiple supply accounts (so-called 'Shared SVA Meter Arrangements'), these were designed with larger half hourly metered sites in mind, and (in their current form) are unlikely to provide a practical mechanism for dynamically changing multiple suppliers, peer-to-peer or other innovative models for electricity supply. We intend to engage with BSC Parties (as a BSC Issue) to assess potential changes to the BSC (and other industry codes) that could address this issue. However, we note that the wording of the Electricity Act needs careful consideration as to what changes can be made towards the use of multiple suppliers for an individual consumer without the need for change to primary legislation.

We note that from a settlement perspective, a requirement for more than one supplier to access data from a single individual meter would require significant industry system changes, as the entire industry operates on the assumption that a single supplier connects to the active import data from a single meter, and a single supplier connects to the active export data. We would also welcome discussions with Ofgem/industry on how to design process changes that will be necessary to deliver these innovative models.

More granular settlement - The movement of settlement down towards individual consumer level from the current Grid Supply Point level would be a fundamental market change that would act as a key enabler to many innovative ideas. This would logically follow from the abolishment of the distinction between Transmission and Distribution, which would do away with the concept of Grid Supply Points, as there would be no Transmission Grid to Distribution transition point. We are aware that this could significantly increase data volumes across the market, and so may lead to some increased costs. We believe that a cost benefit case would need to be established to demonstrate the benefit of such a change, but anticipate that the analysis would support the cost effectiveness of the change. We are confident that we could deliver the change in a cost effective and timely manner. As discussed above, we believe that the costs associated with any such change should be shared by all who would benefit from the change.

### **Data Access, Market Models**

Wider availability of appropriate consumer data - The lack of data on consumer behaviour can impact on assessment of the business case for innovative proposals, and could also impact on their ability to secure funding. Are there ways that anonymised meter data could be available centrally to allow innovators to define proposals that benefit the end consumer?

Furthermore we have seen changes such as [CMP264](#) / [CMP265](#) and BSC Modifications [P348](#) / [P349](#), where data requirements for network charges have required new aggregations based on criteria that require access to greater levels of disaggregated more granular meter data. ELEXON believe that the availability of access to appropriate data (subject to data privacy requirements) should be a key consideration of future market models, e.g. HHS.

### **Costs**

System costs to be shared fairly - We have noted some BSC Modification proposals that appear to be aimed more at a reallocation of existing charges between the parties rather than a reduction in total cost to the industry, and believe that disruptive models must deliver true cost savings, not just provide a commercial advantage to a party or parties by avoiding their fair share of the bill. We note that currently consumers embedded within the distribution network are deemed to be paying for upstream infrastructure. We believe that this principle should persist, with new business models required to recognise the need for embedded consumers to contribute towards the cost of upstream infrastructure and understand this is being looked at through Ofgem Targeted Charging Review.

### **Codes, Governance and Change**

Slow regulatory change - The current process for regulatory change is slow. This can cause innovation to become obsolete before it has even been trialled. This is largely driven by the regulatory requirements to consult on changes, and is being addressed to some extent by the Sandboxes being developed by Ofgem and ELEXON. The concept of industry panels or committees being granted the authority to grant derogations to regulations to allow innovation should be considered (see answer to Topic 1). We believe that in order to deliver smarter, more agile regulation, the regulatory approval approach needs to be considered. This may require increased authority for industry panels or committees to rule on some changes with a significantly shortened consultation process. We understand that this is one area to be considered as part of Ofgem's work on the Consultative board and strategic direction.

Complex regulations/codes make life difficult for new players - The complexity of existing regulations require innovative new players to incur additional costs to assess how their ideas interact with existing regulations, and we have observed instances where potential parties approach ELEXON without a clear enough understanding of the detail of the high level idea they are proposing. The provision of Sandboxes goes some way to address, however there needs to be a joined up approach across all codes where impartial advice on each of the codes is provided that would assist with the development of this innovation. The service would need to be provided by an organisation or organisations that are trusted and non-commercial. We also note that the ability of consumers to understand the complexity of market arrangements has the potential to cause issues with consumers failing to engage with alternative service offerings. In fulfilling our role as manager of the Balancing and Settlement Code (BSC), we routinely work with existing and potential new parties to help them understand the BSC arrangements and how it interacts with their evolving/new business models.

BSC should be an enabler - We want the BSC to be an enabler (not a barrier) to the benefits of innovation, and are working with Ofgem and industry to improve the BSC and facilitate innovative business models and technologies. For example, we have provided expert advice to Ofgem in their Innovation Link and Sandbox programmes to help understand where barriers exist today to innovation.

Rationalisation rather than fragmentation - Multiple organisations and codes increase complexity and costs. There is scope for rationalisation in this area (as noted by ELEXON in previous consultations) on code reform and we hope Ofgem's work on the Consultative Board would seek to provide direction. For example, the proposals for Distribution System Operators could allow the abolishment of the distinction between Transmission and Distribution, allowing all parties to interact only with the DSO, with an updated Distribution Code removing the need for the Grid Code. This would remove the artificial distinctions between how some parties are treated in Scotland as against England and Wales. In the extreme, the existing codes should be reduced down to a single code covering commercial and technical issues at all voltages.

### ***Topic 3 – Alternative default arrangements***

***Q3*** *What other supply market arrangements would provide a better default for disengaged consumers, whereby they are protected adequately and are able to access the benefits of competition?*

ELEXON does not operate in this space and so it would be inappropriate for us to comment on this area.

#### **Topic 4 - Consumer protection**

*Q4 How big an issue is it that we do not currently regulate intermediaries in the energy market? Is there a case for doing so? If so, how would we best do it? We are especially interested in frameworks that enable a wider variety and increased number of market participants to provide supply.*

#### **Regulation**

Regulation to protect the end consumer must remain - Many existing regulations and requirements have been specifically put in place to provide protection for the end consumer. It is important that all future services are subject to sufficient regulation to ensure that the same level of protection is afforded to the end consumer.

Regulator is there to catch the big problems - The role of the regulator should be to protect from significant harm; either in the form of significant financial loss or else loss of supply. The regulator should not necessarily be there to protect a consumer who, with the benefit of hindsight, determines that a marginally cheaper option was available to them.

Regulation of new organisations - Any party that has the potential to cause consumers significant harm should be regulated. This could be achieved by removing the distinction between suppliers and intermediaries. The existing role of the Supplier could be broken down into several distinct functions with separate regulatory requirements. Any party wishing to perform each of the identified functions would have to meet the regulatory requirements of each separate function. This would allow market participants to operate without having to meet all the obligations currently on Suppliers.

Targeted regulation - Within the option of mini suppliers specialising in some parts of the Supplier role, it is possible that each new market participant could be required to comply just to those sections of the BSC that are deemed critical to the role that they are seeking to perform. The charging arrangements would then have to be changed to reflect the costs that different parties imposed on the system. The charging regime would need to ensure that all costs were covered, and that some roles were not unfulfilled due to low profit margins that could be associated with those roles.

#### **Parties' accountability**

Parties should be held accountable - We believe that any party that interacts with the end consumer must be held accountable for their actions, and so be subject to regulation. This should not be limited to intermediaries or any other specific class of parties.