

Early Competition Plan

Phase 3 Consultation: Chapter 6, Implementation

December 2020



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1 Summary

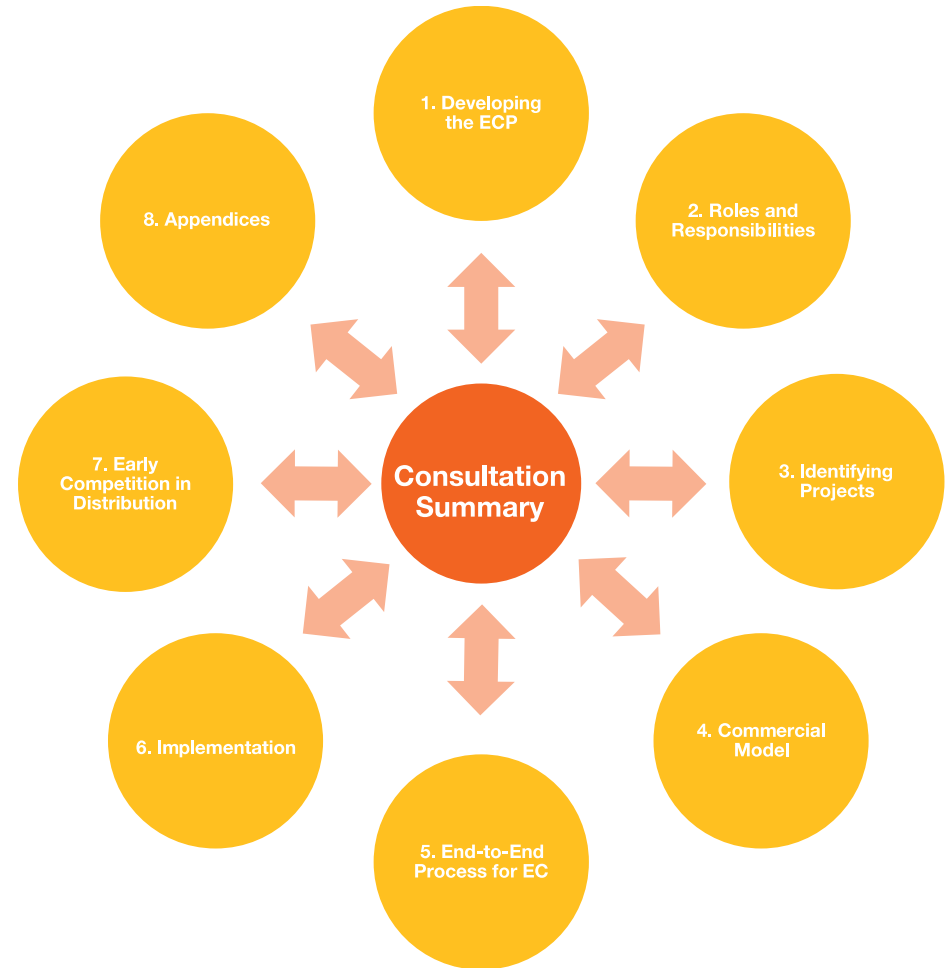
The focus of this chapter is on the implementation plan activities that would be needed for early competition.

In this chapter, we consider what implementation plan activities will likely be needed to implement early competition and why those activities would be needed. Following submission of the Early Competition Plan, we expect that Ofgem will need to conduct a review of several activities prior to deciding whether, and if so, how and when, to implement early competition.

We consider that a more detailed programme plan will need to be created which explore the implementation plan activities in much greater detail, and that the trigger for implementation plan 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 in place.

There are however some implementation plan activities which would likely be on or around the critical path and which are relatively low regret - therefore, it could be worthwhile further progressing these items prior to any decision on early competition being made by Ofgem or prior to the relevant legislation being in place.

We welcome your views on implementation both in response to our questions and more generally if you have further feedback or suggestions.



2 Implementation

This section starts to consider the implementation plan activities which are likely to be needed to implement early competition.

This is a new section which we did not include in our previous consultation, but it is one which we plan to include in our Early Competition Plan ("ECP"). We are therefore setting out our initial views to gather stakeholder insight and feedback on our initial thinking in relation to implementation plan activities. This will help inform the content of our ECP which will in turn help inform Ofgem in their decision-making processes.

2.1 Implementation Activities

This sub-section sets out the implementation plan activities we expect to be needed for each of the key elements of our proposals as set out in the remainder of our Phase 3 consultation.

New issues for consultation

We have set out initial views on implementation plan activities in Table 1. Please note this section does not provide any views on the timing and sequencing of these activities and simply indicates that they will be needed to implement early competition.

Table 1: Implementation Plan Activities

Implementation Activity	Activity Narrative
Primary Legislation	Primary legislation will be needed to allow an early competition to be undertaken which allows both network solutions and non-network solutions to compete against each other to address Electricity Transmission network needs.
Secondary Legislation	Secondary legislation will likely be needed to set out the early competition criteria and/or to set out the early competition procurement process.

Implementation Activity	Activity Narrative
Facilitative Licence Changes (including Conflict Mitigation Measures)	<p>A set of facilitative licence changes will likely be needed for the Electricity System Operator ("ESO") and/or incumbent Transmission Owners ("TOs") to set out obligations and remuneration in relation to facilitating the implementation of early competition, including respective future roles in relation to periodically identifying and facilitating early competitions.</p> <p>This will need to include any appropriate conflict mitigation measures.</p>
Facilitative Industry Code Changes	<p>A set of facilitative industry code changes will likely be needed in respect of the ESO and/or incumbent (and future) TOs to set out any obligations and/or processes in respect of periodically identifying and facilitating early competitions e.g. in respect of data exchange to support a tender process, etc.</p>
Network Planning Body (Capacity and Capability)	<p>The Network Planning Body will need to increase resources and skills to carry out its new functions. There may need to be structure, process and/or system change in respect of those new functions.</p>
Future Energy Scenarios, Electricity Ten Year Statement, Network Options Assessment and Interested Persons Options Process Amendments	<p>These existing processes will need to be reviewed and potentially amended to support identification of network needs which may be suitable for early competition. This will be linked to the development of the early competition criteria methodology. This may also be linked to facilitative industry code changes.</p>
Other Process Amendments e.g. Connections, Asset Replacement, etc	<p>Other existing processes may need to be reviewed and potentially amended to support identification of network needs which may be suitable for early competition. This will be linked to the development of the early competition criteria methodology. This may also be linked to facilitative industry code changes.</p>
Early Competition Criteria Methodology	<p>A methodology will need to be created by which network needs will be assessed against the early competition criteria, including the development of a cost-benefit analysis methodology to determine whether the savings associated with an early competition are expected to outweigh the corresponding costs.</p>
Approver (Capacity and Capability)	<p>The Approver will need to increase resources and skills to carry out its new functions. There may need to be structure, process and/or system change in respect of those new functions.</p>
Contract Counterparty	<p>The Contract Counterparty will need to increase resources and skills to carry out its new functions.</p>

Implementation Activity	Activity Narrative
(Capacity and Capability)	There may need to be structure, process and/or system change in respect of those new functions.
Payment Counterparty (Capacity and Capability)	The Payment Counterparty will need to increase resources and skills to carry out its new functions. There may need to be structure, process and/or system change in respect of those new functions.
Procurement Body (Capacity and Capability)	The Procurement Body will need to increase resources and skills to carry out its new functions. There may need to be structure, process and/or system change in respect of those new functions. (In the event the Procurement Body is a new entity this will need to be created.)
Substantive Industry Code Changes	Substantive industry code changes will need to be raised and concluded e.g. in respect of the rights and obligations under codes of successful network solutions and non-network solutions. It may be prudent to combine these industry code changes with any facilitative industry code changes. Further information on this activity is provided in Chapter 8 , Appendix 4.
Network Need Identification and Market Engagement	The first tranche of network needs will need to be assessed and engaged upon to inform Stage Gate 1. Further information on Stage Gate 1 can be found in Chapter 2 on Roles and Responsibilities.
Eligibility Assessment and Stage Gate 1 Decision	An eligibility assessment will be undertaken on the first tranche of network needs and a decision taken by Ofgem on what, if any, will result in an early competition.
Market Engagement and Stage Gate 2 Decision	The Procurement Body will undertake pre-tender engagement and a final decision on whether to formally launch a tender will be taken by Ofgem at Stage Gate 2. Further information on Stage Gate 2 can be found in Chapter 2 on Roles and Responsibilities.
Tender Specific Policy Decisions	Any tender specific policy decisions will be made e.g. in respect of availability incentive structure, etc.
Tender Process and Documentation (including contract/licence pro-forma)	The tender process documentation will be created - this will include a pro-forma contract and licence. This will be in combination with any tender specific policy decisions e.g. in relation to the availability incentive structure, any enhanced contract provisions, etc. Other supporting documents will be created and published. For example, Debt Competition Guidance, Post Preliminary Works Cost Assessment Guidance and Tender Process Guidance.

Implementation Activity	Activity Narrative
<p>Inaugural Early Competition Launch</p>	<p>Once the above items have been satisfactorily concluded the first stage of the first tender process can start i.e. the Prequalification Stage as detailed in Chapter 5 on the End-to-End Process.</p>

In the event that the Procurement Body is a third party (as per [Chapter 2](#), Roles and Responsibilities) then as well as the creation of the Procurement Body the relationship between that body and the industry codes will need to be further considered. In addition, other governance and process arrangements in respect of the Procurement Body will also need to be developed e.g. their relationship with Ofgem, etc.

It is also worth noting that prior to any decision being taken by Ofgem we anticipate that Ofgem will need to undertake further work on early competition. Following submission of the ECP Ofgem will need to conduct a review of several activities prior to deciding whether, and if so, how and when, to implement early competition.

This is likely to include consultation on views on roles and responsibilities and key aspects of any early competition model. This would likely include the form of competition, how that competition would sit alongside other regulatory approaches, and how Ofgem would regulate the competition and its outcome.

It would also likely include 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 needed to licences, codes or frameworks to implement early competition will likely follow the appropriate formal change processes. To fully implement the early competition process, set out in this consultation, legislative changes will be needed 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 is expected.

Ofgem will also need to further consider any interactions between early competition and late competition in relation to the respective models and their implementation.

Questions

1. Do you think Table 1 is a comprehensive list of high-level implementation plan activities? If not, what has been omitted?

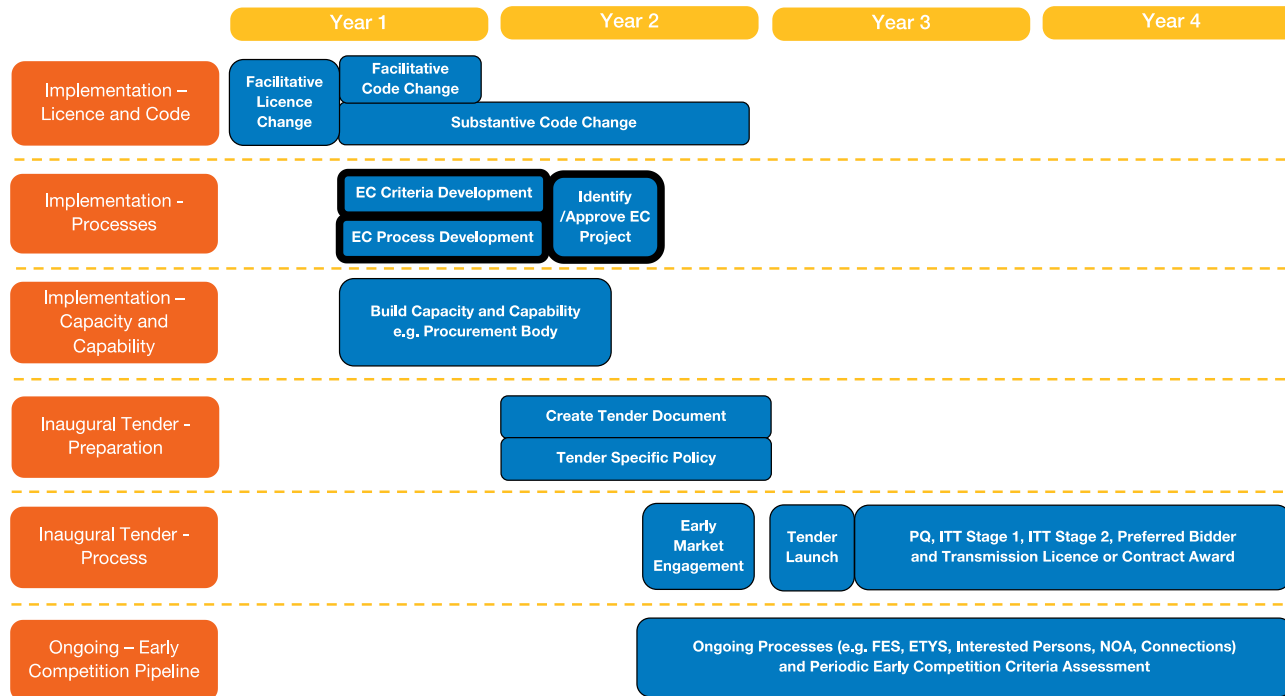
2.2 Activity Timing and Sequencing

This sub-section takes the above implementation plan activities and starts to consider the timing and sequencing of those activities.

New issues for consultation

We have set our initial views on the timing and sequencing of implementation plan activities in Figure 1. We have assumed that the trigger for implementation plan 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 in place, as the relevant implementation pre-requisites. There is also a question on whether facilitative licence changes would also need to be enacted to start implementation. Those activities bordered in black in Figure 1 are further considered in Section 2.3.

Figure 1: Implementation Plan Overview



Further to the above, a more detailed programme plan will need to be created which explores the above implementation plan activities in much greater detail. We would expect to start to build a more detailed implementation plan for inclusion within the ECP to inform implementation timescales but as with all plans we would only expect it to be finalised and baselined for the start of any future implementation programme.

For example, if we were to focus on industry code change there would be many further detailed implementation plan activity considerations which would need to be factored into a future implementation plan as detailed below.

Industry Code Implementation Plans and Timescales

In respect of implementation of industry code change we do not believe it would be efficient for the ESO or wider industry to undertake a detailed code review or raise code modifications until a decision has been taken by Ofgem on what (if any) early competition model should be implemented and in what timescales. At this point in time we are assuming that industry code change will therefore not start until a decision is taken and at that point change would be taken through open governance - this is a working assumption and we note this could be subject to change.

Therefore, we do not see there being a conflict between the development of the ECP and any future code change being taken through an appropriate governance route with wider industry and relevant code panels at an appropriate point in time in the future.

Based on our high-level assessment and stakeholder engagement to date we estimate that Connection and Use of System Code and Grid Code modifications would take 6-12 months and System Operator Transmission Owner Code ("STC") modifications (including STC Procedures) would take 12-18 months. These estimates are dependent upon both the final volume of change needed as well as whether

Our current estimate is that the first early competition process could start between 2023 to 2025 (inclusive) with the first contract or licence being awarded in the 2025 and 2027 (inclusive) range. This timescale assumes that both the relevant pre-requisites are in place mid-to-late 2021 and that there is then a minimum of an 18-24 month implementation period.

the changes are subject to any form of code panel prioritisation. The estimated timescales for other codes and standards remain to be confirmed but we expect they would be no longer than the STC changes and as such, in respect of industry code change, this would be on the critical path. Further information of the potential scale of code change can be found in [Chapter 8](#), Appendix 4, which considers the impact of our model on the codes.

In addition, whilst there could potentially be some parallel working, we expect that industry code change will follow on from any legislation and licence changes needed to implement early competition i.e. any facilitative licence changes to the ESO and/or incumbent TOs will be undertaken prior to any code changes. There will be more time available for the relevant party (or parties) to develop the licence and contract documentation that would be awarded to successful bidders considering these pro-forma documents would not be needed until the start of the first tender process. Therefore, we do not foresee any licence changes being needed or made until after a decision has been taken by Ofgem on early competition in the future.

Questions

2. Do you agree with our proposed timing and sequencing for implementation plan activities? If not, what would you change?

2.3 Pre-Implementation Considerations

Based on *Table 1* and Figure 1 this sub-section considers which implementation plan activities could start prior to the pre-requisite activities detailed above i.e. the decision being taken by Ofgem and the relevant legislation being in place.

In addition, this sub-section considers what (if any) early competition model could run prior to the relevant early competition legislation being in place.

New issues for consultation

Our new issues for consideration are as follows.

Pre-requisites prior to starting implementation

As a reminder, in Section 2.2 above we stated that we assume the trigger for implementation plan 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 in place.

There is also a question on whether facilitative licence changes would need to be enacted to start implementation plan activities.

As we do not know what decision Ofgem will take on the implementation of early competition and so what (if any) model will be implemented we feel that many of the implementation plan activities should not start prior to a decision being taken by Ofgem.

This ensures that the risk of wasted effort is minimised e.g. in relation to developing code modifications based on a model which may subsequently change due to further Ofgem consultation.

There are however some implementation plan activities which would likely be on or around the critical path and which are relatively low regret - therefore, it could be worthwhile further progressing these items prior to any decision on early competition being made. This would potentially introduce additional float into the implementation programme whilst resulting in minimal wasted effort in the event a decision is taken to introduce a materially different model or even a decision to not implement early competition.

We have set out our views on these 'potentially advanceable' implementation plan activities (as per Figure 1) as follows.

- **Future Energy Scenarios, Electricity Ten Year Statement, Network Options Assessment and Interested Persons ("IP") options process amendments and other process amendments e.g. Connections, Asset Replacement, etc**

Whilst it may not be efficient to make any process amendments in advance it could be prudent to explore them in greater detail in conjunction with the further development of the early competition methodology as below. This would allow a better understanding of the potential changes needed to processes, exactly which network needs may potentially be suitable for early competition and hence identifying a potential pipeline of early competition projects.

In addition, it could provide information on the changes needed to the capacity and capability of the Network Planning Body prior to making any such changes.

- **Early Competition Criteria Methodology**

Further development of the early competition criteria methodology and associated cost-benefit analysis will be critical to the identification of network needs which might be suitable for early competition.

If undertaken with the above activities this increases the chances of a robust process which identifies potentially suitable network needs in good time. This will also provide useful information in respect of undertaking future market engagement and as such it could be worth considering further in parallel to the IP options process as detailed in [Chapter 3](#) on Identifying Projects.

In addition, there could also be further 'potentially advanceable' implementation plan activities (as per Figure 1) which could be undertaken once a decision has been made by Ofgem but prior to the relevant legislation being in place as follows.

- **Capacity and Capability**

The relevant parties for each of the relevant roles could start to build their capacity and capability e.g. the Procurement Body, etc. This could allow some of the inaugural tender preparation to start at an earlier date.

Early competition prior to Onshore Competition Legislation

In the letter from Ofgem setting out the scope of our work they set out an aim that the proposed model should be able to work both with and without the expected early competition legislation. Our current proposals assume that the relevant legislation will be in place from the outset and that such legislation will appropriately facilitate our proposals, or whatever variation of these proposals Ofgem decide should be implemented in the future.

Once legislation is available a review of the appropriate proposals against such legislation will be needed to make sure alignment between the final legislation and those proposals. In respect of what (if any) of the proposed model can be implemented prior to legislation being available, our current view is that whilst some of the model can potentially work without new legislation being in place some of it is expected to require new legislation.

Moreover, much of what might be possible without legislation being in place is already being considered and undertaken via our pathfinders.

Therefore, at this point in time our 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.

However, there may be opportunities to adapt and align our pathfinders with early competition thinking in some cases, where this is both possible and appropriate to do so. We will further consider this point once our early competition proposals are finalised.

We will continue to consider what happens with our pathfinders in the event early competition is implemented and we will share our views in due course.

Questions

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?

Next Steps

Thank you for taking the time to read this chapter of our Phase 3 consultation.

We look forward to receiving your feedback which will help inform the final version of the Early Competition Plan. For full details on the range of options on how to respond, please refer to the [Consultation Summary](#), Section 8.