

Sent by email.

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Re: Consultation on the future ownership of Elexon

Thank you for the opportunity to respond to this consultation.

The Retail Energy Code Company (RECCo) was formed as the corporate vehicle for ensuring the proper, effective, and efficient implementation and ongoing management of Retail Energy Code (REC) and to promote innovation, competition, and positive customer outcomes. RECCo itself is a company limited by shares, owned by the Parties to the REC. We consider that this model has worked well for RECCo and could suitably be adopted by the Elexon, in its role as the Balancing and Settlement Code Company.

Our detailed response to each of the consultation questions are set out in the appendix to this letter. We would be happy to discuss any of the points raised in further detail.

Yours sincerely

Jon Dixon
Director, Strategy and Development
Retail Energy Code Company Limited

Appendix: Consultation Questions and RECCo Response.

1. Do you agree with the proposed criteria to determine the future ownership of Elexon? Please state why.

We agree with the criteria set out in the consultation. As these proposals are aimed at removing a potential impediment to the timely creation of the Future System Operator (FSO) rather than seeking to address any specific concerns with the funding, governance, or ownership of Elexon itself, it is appropriate to focus primarily on whether either of the options would fulfil that aim, while ensuring no detrimental impact on its current activities.

2. Do you agree that public ownership and industry ownership are the two most credible ownership options? In your view, are there any other ownership options that we should consider, and why?

We have not identified any alternative ownership models would better meet the assessment criteria, so therefore agree that these appear to be the two most credible ownership options. We recognise that Elexon fulfils a critical and unique role in the Great Britain energy markets and does so on a not-for-profit basis, allowing it to prioritise the interests of its Parties and therefore of the wider market, to the benefit of all electricity consumers. An alternative ownership model may bring with it the wider of interests of shareholders and other investors, which may not be aligned with and/or legitimately compete for priority against the interests of existing stakeholders.

3. Do you agree with our stated preference of the potential combinations of BSC parties which could own Elexon if industry ownership were chosen? Please state why?

We agree that limiting the ownership to only those licensed entities that currently have funding responsibilities may be the simplest to implement. This would also ensure that there are alternative *relevant licensees* who can take on the obligations that are currently placed upon NG ESO, e.g., those set out in Condition C3 of the Transmission licence. This collective responsibility for certain conditions may be appropriate irrespective of whether ownership is retained solely with the FSO or distributed across a wider set of BSC Parties.

It is not yet certain that the full range of levers that the FSO may require to discharge its role have been identified, and therefore whether it should retain any residual responsibilities in relation to the BSC. To the extent that it does retain any rights and responsibilities, for instance in being able to make any directions to the BSC Panel or Code Manager, it may be appropriate for these to be set out in its licence and backed-off with complementary provisions within the BSC.

It is also at least possible that these rights and responsibilities may in time need to be extended to Distribution System Operators, who may have a similar role to the FSO, albeit to a more geographically limited extent. However, it may be premature and disproportionate to extend the scope of licence change and ownership obligations at this stage, as the principal of industry ownership could be readily extended to include wider groups at any point in the future when there is a stronger rationale to do so.

4. To what extent do you agree with the above analysis of the two main ownership options, public ownership and industry ownership, and your preference for industry ownership?

We agree with the analysis of the two ownership options set out in the consultation. As set out, there is no obvious reason Elexon's current operational activities could not continue with substantively the same governance as today, simply replacing NG ESO ownership with the collective ownership of licensed BSC Parties.

We further agree that there is no obvious reason to move the operation of the balancing and settlement arrangements into the public sector, even in the short term. We note that no specific impediments to shared ownership have been identified to date; there therefore appears to be no reason that option cannot proceed, and in all likelihood to a faster timetable than would be the case for the public ownership options. That would also negate any risk that Elexon would not be returned immediately to the private sector, whether through constraints of BEIS resource, parliamentary time, or some other issue.

5. To what extent do you agree with our proposal that Elexon should transfer temporarily into the public sector as a subsidiary of the FSO as a last resort, if industry ownership was chosen following consultation but could not be implemented without delaying the creation of the FSO? Please explain why.

We are not aware of any reason the ownership of Elexon could not transfer to licensed BSC Parties within the necessary timescales, particularly as it would be possible to place obligations on those Parties to expedite and/or complete the transfer by a prescribed date, either as a condition of their licence or within the BSC itself.

While it is possible that some Parties may ordinarily require more time than others to give effect to such changes, the requirement to discharge a new licence and/or code obligation should ensure that the administrative arrangements are given suitable internal priority. Further, this change should not necessarily proceed at the pace of the slowest. Whilst we agree that it would be inappropriate to vest the ownership of Elexon in any single entity, even temporarily, it is likely that the number of Parties who are able to act quickly will be sufficient to ensure plurality of ownership.

6. Are any other changes required to implement either of the two ownership options?

All the obvious changes required to implement either of the two ownership options have been identified.

7. What are your views on the proposed licence and code changes set out above?

We agree with the proposed licence and code changes. While it may in most cases be preferable to have a single licensee responsible for certain obligations, we consider that most if not all the provisions within Condition C3 of the Transmission licence would be better targeted upon those licensees who will continue to be Party to the BSC and/or own Elexon, rather than solely the new FSO. While we agree that these obligations in practice currently require little or involvement of NG ESO, they do not appear to sit comfortably with the FSO's strategic obligations and could distract resource that would be better spent on their delivery.

We also agree that there is opportunity to undertake some housekeeping of those provisions, allowing for the deletion of anything that has already been discharged, captured within the BSC or otherwise superseded.

8. Have we considered all relevant costs and benefits of these proposals? Please state why?

We agree with the high-level costs and benefits identified, and the fact that temporary public ownership would do nothing to negate the costs to industry, while potentially requiring much greater BEIS and industry effort. As above, it would also create an additional risk that such resources were not readily available to return Elexon to the private sector, meaning that the temporary solution may endure longer than absolutely necessary.