

## **Guidance on impact assessments**

### **Revised guidance**

June 2005

## Summary

This document replaces the guidance published in September 2004. It provides guidance about how the Office of Gas and Electricity Markets (“Ofgem”) will conduct Impact Assessments (“IAs”) <sup>1</sup>. For some time, Ofgem has been preparing regulatory impact assessments (“RIAs”) on important issues. In December 2003 section 6 of the Sustainable Energy Act 2003 placed a duty on the Gas and Electricity Markets Authority (“the Authority”) to carry out IAs by inserting section 5A into the Utilities Act 2000 (“the Utilities Act”). In all cases where the Authority is proposing to do anything for the purposes of, or in connection with, the carrying out of its functions under Parts I of the Gas or Electricity Acts and it appears to the Authority that proposal is “important”, the Authority must carry out and publish an IA, or publish a statement setting out the reasons that it considers that it is unnecessary for it to carry out an IA.

Ofgem considers that conducting an assessment of impacts is an integral part of policy development and is not only about publishing reasons for a decision but about a structured approach to policy development and decision making. Ofgem considers that effective consultation is at the heart of good quality policy development and that IAs, as evolving documents, have a significant role to play in this.

To produce good quality IAs and help ensure that Ofgem’s policy development and resulting policy decisions are of the required quality Ofgem will be looking to industry and other stakeholders to provide input through a process of constructive engagement.

Those impact assessments which Ofgem has produced are listed in Appendix 2.

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<sup>1</sup> Ofgem is the Office of Gas and Electricity Markets. Ofgem operates under the directions and governance of the Gas and Electricity Markets Authority. Its powers are provided for under the Gas Act 1986 (“the Gas Act”), the Electricity Act 1989 (“the Electricity Act”) (together “the Acts”) and the Utilities Act 2000 (“the Utilities Act”). For the purpose of this document the terms Ofgem and Authority are used interchangeably.

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# 1. Introduction

- 1.1. Since December 2003 Ofgem has had a statutory duty to carry out Impact Assessments (“IAs”) for important decisions or publish a statement setting out its reasons for thinking that it is unnecessary for it to do so<sup>2</sup>.
- 1.2. This document provides guidance about how Ofgem will conduct IAs.
- 1.3. This guidance describes:
  - ◆ the legal framework within which Ofgem will conduct IAs
  - ◆ the procedures to be followed when Ofgem conducts IAs and in particular the arrangements for consultation
  - ◆ the times when Ofgem will conduct an IA
  - ◆ the scope of IAs, and
  - ◆ the particular arrangements for IAs relating to code modifications.
- 1.4. This document is not meant to be prescriptive but presents a framework which Ofgem will follow in most cases. The approach to be adopted in individual cases will depend on the particular circumstances. IAs for those proposals likely to have the most significant impacts and effects will tend to be the most detailed and contain the most extensive analysis.
- 1.5. Ofgem considers that some issues are more amenable to realistic quantification than others. In many cases a properly justified quantification of costs and benefits may be hard to produce. Ofgem considers that IAs will always be a mixture of qualitative and quantitative assessments. Qualitative assessments do not indicate that an issue is less important. Rather Ofgem wishes to avoid producing spurious quantification which could create a false impression of certainty. Where quantitative assessments are presented they will often be in the form of ranges and an indication will be given of the robustness of the assumptions.

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<sup>2</sup> These are often also referred to as regulatory impact assessments (RIAs).  
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## ***Structure of the Guidance***

- 1.6. The rest of this document is structured in the following way:
- ◆ Chapter 2 explains the legal and policy framework for IAs
  - ◆ Chapter 3 explains when an IA will be produced
  - ◆ Chapter 4 explains the procedure that Ofgem will follow for producing and publishing an IA
  - ◆ Chapter 5 sets out what an IA will cover
  - ◆ Chapter 6 sets out how Ofgem will produce IAs for gas and electricity code modifications
  - ◆ Chapter 7 explains how Ofgem will make an assessment of environmental impacts
  - ◆ Appendix 1 lists the guidance published about RIAs to which Ofgem will have regard where it considers appropriate, and
  - ◆ Appendix 2 lists those IAs which have been published by Ofgem since July 2003.
- 1.7. The requirement for Ofgem to produce and publish IAs is set out in legislation. This Guidance document explains the legislation and Ofgem's administrative arrangements in relation to IAs. In Ofgem's view the procedures described in the Guidance are intended to impose the minimum burden on industry while ensuring that Ofgem can carry out its required duties in a manner which commands confidence.
- 1.8. Any comments or questions about this guidance or comments or complaints about any IAs produced by Ofgem should be sent to:

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## 2. Legal and policy framework

### *Legal framework*

- 2.1. Section 6 of the Sustainable Energy Act 2003 placed a duty on the Authority to carry out IAs by inserting section 5A into the Utilities Act 2000 (“the Utilities Act”)<sup>3</sup>.
- 2.2. Section 5A of the Utilities Act applies where:
  - ◆ the Authority is proposing to do anything for the purposes of, or in connection with, the carrying out of any function exercisable by it under or by virtue of Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989, and
  - ◆ it appears to the Authority that the proposal is “important”.
- 2.3. Chapter 3 considers in more detail the circumstances where Ofgem would carry out an IA.
- 2.4. Under section 5A Ofgem may, where it considers that it is an urgent case, determine that it would be impracticable or inappropriate to comply with the requirement to produce an IA<sup>4</sup>.
- 2.5. In the circumstances described in paragraph 2.2 above the Authority must:
  - ◆ carry out and publish an IA, or
  - ◆ publish a statement setting out the reasons that it considers that it is unnecessary for it to carry out an IA.
- 2.6. Ofgem will consider on a case by case basis whether it will carry out and publish an IA or publish a statement setting out the reasons that it considers that it is unnecessary for it to carry out an IA.

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<sup>3</sup> s.6. Sustainable Energy Act 2003

<sup>4</sup> s.5A(1)(b) Utilities Act 2000

- 2.7. Under section 5A an IA must include an assessment of the likely effects on the environment of implementing the proposal and relate to such other matters as the Authority considers appropriate.
- 2.8. Under section 5A Ofgem must, when it carries out an IA, have regard to such general guidance which relates to the carrying out of IAs as it considers appropriate.
- 2.9. Where an IA is being produced under section 5A, Ofgem is required to consult about its proposal with the general public and any others who are likely to be significantly affected by the proposals' implementation. Chapter 4 considers in more detail the arrangements for consultation.

### ***Decisions outside the scope of Section 5A***

- 2.10. Where Ofgem decides that a proposal is not "important" and therefore does not require an IA it will normally, in any consultation or proposals documents that it publishes, set out a summary of the impacts of the proposal and the reasons why Ofgem considers that an IA is not required. However this is not a statutory requirement.
- 2.11. Ofgem will as part of any consultation process have regard to any responses or views received that indicate that an IA is required.

### ***Ofgem policy context***

- 2.12. Ofgem considers that conducting an assessment of impacts is an integral part of policy development and is not only about publishing reasons for a decision but about a structured approach to decision making. An assessment of impacts should enable policy options to be compared, even if only in qualitative terms.
- 2.13. The assessment should look at a range of possible options including those proposed by other bodies such as industry groups and consumers.
- 2.14. Under requirements to be introduced by the Energy Act 2004 Ofgem must have regard to the principles under which regulatory activities should be transparent,

accountable, proportionate, consistent and targeted only at cases in which action is needed<sup>5</sup>. In Ofgem's view the production of IAs will contribute to that.

- 2.15. Ofgem committed in the Energy White Paper published in February 2003, "Our energy future – creating a low carbon economy"<sup>6</sup> ("the White Paper") to produce RIAs including environmental impact assessments for all new significant policies from July 2003.
- 2.16. This commitment to produce RIAs preceded by some months the statutory duty on impact assessments included in the Sustainable Energy Act. This statutory duty has now superseded the commitment which Ofgem made in the White Paper.
- 2.17. However, there are some circumstances in which Ofgem may carry out a non-statutory regulatory impact assessment. These circumstances might include those where Ofgem is developing its policy in a particular area ahead of any specific proposals, if sufficiently relevant data were available. While Ofgem is committed to making quantitative and qualitative assessments where necessary, Ofgem will be careful not to place unnecessary burdens on industry and will focus its efforts appropriately.
- 2.18. A full list of IAs published by Ofgem since July 2003 is set out in Appendix 2.

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<sup>5</sup> The Energy Bill received Royal Assent on 22 July 2004.

<sup>6</sup> Our energy future – creating a low carbon economy. Department for Trade and Industry. February 2003.

### 3. When will an IA be produced?

- 3.1. As set out in Chapter 2, section 5A of the Utilities Act requires Ofgem to conduct and publish an IA or publish a statement setting out its reasons for thinking that it is unnecessary for it to carry out an assessment where:
- ◆ the Authority is proposing to do anything for the purposes of, or in connection with, the carrying out of any function exercisable by it under or by virtue of Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989, and
  - ◆ it appears to the Authority that the proposal is “important”.
- 3.2. It is for Ofgem to decide whether it considers that a policy proposal is “important” under the meaning of section 5A. Ofgem will decide whether a policy proposal is “important” on a case by case basis.
- 3.3. While market participants and members of the public may consider that a policy proposal is important, and Ofgem will consider representations about this, Ofgem must in deciding whether a policy proposal is “important” apply the test set out in Section 5A.
- 3.4. Section 5A defines a proposal as “important” where its implementation would be likely to do one or more of the following:
- ◆ involve a major change in the activities carried on by the Authority
  - ◆ have a significant impact on market participants in the gas or electricity sectors
  - ◆ have a significant impact upon persons engaged in commercial activities connected to the gas or electricity sectors
  - ◆ have a significant impact on the general public in Great Britain or in a part of Great Britain, or
  - ◆ have significant effects on the environment.

## ***Criteria for determining importance***

- 3.5. The following sections set out examples of those proposals which may, for each of the key tests set out in Section 5A, indicate that a proposal is “important”.

### **Whether the implementation of a proposal is likely to involve a major change in the activities carried on by the Authority**

- 3.6. Proposals which may involve a major change in the activities carried on by the Authority may include, for example, those where Ofgem exercises a significant new power or function for the first time or where Ofgem proposes important changes to the way in which it discharges a duty.

### **Whether the implementation of a proposal is likely to have a significant impact on licensees or on persons engaged in commercial activities connected with licensable activities**

- 3.7. Proposals which are likely to result in “significant impacts” may include, for example, those where the implementation of the proposal would have significant costs for industry participants and persons engaged in commercial activities.

### **Whether the implementation of a proposal is likely to have a significant impact on the general public in Great Britain or in a part of Great Britain**

- 3.8. “Significant impacts” may be likely, for example, where the implementation of a proposal significantly affects security of energy supplies, health and safety, race relations<sup>7</sup>, gas or electricity prices or competition in UK markets.

### **Whether the implementation of a proposal is likely to have significant effects on the environment**

- 3.9. “Significant effects” may be likely where, for example, the proposal is likely to result in an appreciable increase or decrease in greenhouse gas emissions.

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<sup>7</sup> Ofgem has a duty under the Race Relations (Amendment) Act 2000 to “identify those of our functions which we consider could affect different racial groups in different ways or affect good race relations.”  
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### **Decisions taken and IAs published**

- 3.10. Ofgem is required to publish, in its annual report, a list of all those IAs that it has published in the preceding year. It is also required to set out in its annual report a summary of the decisions taken to which IAs relate.

## 4. What is the procedure?

- 4.1. In determining the matters to which an IA should relate Ofgem must have regard to such general guidance as it considers appropriate. Appendix 1 sets out the general guidance on RIAs which has been published and to which Ofgem will have regard where it considers that the guidance is appropriate.

### **Consultation**

- 4.2. Ofgem considers that meaningful consultation is an important part of the process of developing a robust assessment of impacts.
- 4.3. Ofgem has published a statement which sets out the principles that govern Ofgem's consultations and explains the standards Ofgem will adhere to when consulting<sup>8</sup>. Ofgem considers that its established procedures for publication and consultation are appropriate. Ofgem recognises that as a public body it is important that as part of its decision-making process it conducts open and fair consultation.
- 4.4. Documents are published on its website ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)) and interested parties are notified through an email distribution list. Ofgem may also in certain cases directly inform those parties who may be affected or who have a particular interest.
- 4.5. Ofgem considers that the consultation of interested parties:
- ◆ improves the quality of decisions
  - ◆ improves planning and prioritisation
  - ◆ builds understanding of its work, and
  - ◆ enables progression towards a solution by consent.

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<sup>8</sup> Ofgem consultation policy. June 2002 46/02.  
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- 4.6. Consultation also helps to make Ofgem's decision-making process clear to those who are affected by, and concerned with, its decisions. The quality of the analysis will depend heavily on the quality of the input received, in particular on the quantification of costs and benefits. Ofgem will be looking to affected parties to contribute, through the consultation process, to the development of the IA and policy.
- 4.7. Ofgem has committed from January 2005 to aim to set a minimum consultation period of 6 weeks and where the period is shorter to explain why<sup>9</sup>. Where possible Ofgem hopes that the consultation period will be at least 6 weeks. Until this time Ofgem would hope that it is able to provide more than the current 28 day period for responses in particular where:
- ◆ the issues being consulted on are complex and involved
  - ◆ likely to be controversial
  - ◆ policy is at its very early stages of development, or
  - ◆ the consultation falls over a holiday period.
- 4.8. There may however be exceptions to this indicative timing where for example:
- ◆ consultation on a policy issue follows a timetable laid down by other bodies such as part of the merger process where Ofgem consults in order to advise the OFT, or
  - ◆ where Ofgem considers that issues need urgent attention.
- 4.9. Representations can be made by anyone including members of the public, consumer groups and gas or electricity market participants. Any representations received within the time period given in the consultation document, and which are not subsequently withdrawn, will be considered by Ofgem.
- 4.10. Ofgem will consider whether, in the light of any representations that are received, it is appropriate to continue with the proposal as proposed or whether it is necessary to amend its proposal.

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<sup>9</sup> Summary of responses to Ofgem's proposed Corporate Plan 2004 – 2007. Ofgem 109b/04.  
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4.11. In many cases Ofgem will, in discharging a function under Part 1 of the Gas or Part 1 of the Electricity Acts, be required to consult as part of a separate statutory duty. Where Ofgem has a requirement under the Gas or Electricity Acts to consult, for example, when proposing the modification of licence conditions, it will seek to publish the IA as an annex to any consultation required under Part 1 of the Gas and Electricity Acts.

### **Informal consultation**

4.12. The statute only refers to the requirement to consult on an IA for a proposed exercise of a function. However, in line with good practice Ofgem will undertake earlier, informal consultation, where possible, as policy is being developed.

4.13. Ofgem considers that early consideration of stakeholders' views on emerging policy proposals will help to stimulate debate and help to ensure that any IA is accurate, well developed and explores all possible policy options. Informal consultation can also help to clarify whether, for a particular policy proposal, an IA is necessary.

### **Stages of consultation**

4.14. Where Ofgem decides that there is a need for an IA, the process will in most cases consist of the production and publication of two IAs. These will be:

- ◆ an initial draft IA produced at an early stage in policy development and representing an indication of Ofgem's initial thoughts about the impact of a policy, and
- ◆ a final IA which is the culmination of the process of consultation and policy development work.

4.15. In some cases, where for example responses to the initial IA indicate significant issues, impacts or options that have not been considered by Ofgem, there may be a need for an additional IA which sets out those issues or impacts identified as a result of consultation of further policy development.

4.16. This approach complements Ofgem's established consultation process, for example an initial draft IA could be published with an initial proposals

consultation document and then a final IA with a decision document. In some cases there may, however, be fewer stages of Ofgem consultation and Ofgem may seek to incorporate the consideration of a number of “important” issues into one IA document or, for example where there is a major price control, there may be many more stages of consultation.

- 4.17. In all cases Ofgem will, however, seek to provide as much opportunity as is possible for consultation during policy development on the impacts of any policy proposal.
- 4.18. While in some cases it may be appropriate to publish IAs which are stand alone documents, in most cases IAs will be annexed to initial proposals, final proposal and decision documents. In order to minimise duplication and increase transparency the IA will refer to sections within the main document and vice versa.

## 5. What will the IA cover?

- 5.1. Section 5A requires that an IA must include an assessment of the likely effects on the environment of implementing the proposal and any such matters as Ofgem considers appropriate.
- 5.2. In determining the matters which Ofgem considers should be included in an IA Ofgem has a duty to have regard to general guidance about impact assessments, where it considers that this guidance is appropriate. The general guidance about carrying out of impact assessments to which Ofgem will have regard, where it considers the guidance to be appropriate, is set out in Appendix 1.
- 5.3. Ofgem will seek to ensure that IAs are proportionate to the likely impacts of a proposal.
- 5.4. Ofgem will, where possible, use a standard template as the basis for those IAs that it produces. The actual contents of an IA will, however, vary depending on the circumstances of the proposal and its likely impacts or effects. An IA may therefore, where appropriate, set out:
  - ◆ Objectives
  - ◆ Key issues
  - ◆ Options
  - ◆ Competition
  - ◆ Impacts, costs and benefits (with the following explicit sub-headings)
    - ◆ Environment
    - ◆ Security of supply
    - ◆ Health and safety issues
    - ◆ Distributional effects
    - ◆ Small businesses

- ◆ Risks and unintended consequences
- ◆ Costs and benefits
- ◆ Conclusion

### **Objective**

- 5.5. An IA will explain the objectives of the policy proposal and set out those issues which the proposal seeks to address. The IA will indicate which of Ofgem’s duties and objectives are of particular relevance in the specific context of the proposal.

### **Key issues**

- 5.6. The issues section of an IA will set out the specific objectives of the proposal and explain how they are linked back to Ofgem’s statutory duties. An IA will set out clearly the problem that the proposal is seeking to solve and what the likely impact of that problem is.
- 5.7. The IA will, where appropriate, also set out the consequence of doing nothing as this may form the baseline or “do nothing” option against which all other options will be assessed. In other cases, however, the baseline may be formed by another option. There may also be occasions, such as where proposals are responses to legislation or Government initiatives, where a “do nothing” option is not appropriate. In some cases Ofgem may be compelled to propose changes to be compliant with the broader regulatory framework.

### **Options**

- 5.8. Where appropriate an IA will set out a range of options and proposals. Options presented in an initial IA may take the form of a list of alternatives many of which can be discarded as policy develops. Where options are presented, the IA should explain the contribution that each option would make to the policy goal together with the risks of each option’s implementation.
- 5.9. With the exception of where there is a legislative requirement IAs will consider a “do nothing” option. For code modifications, however, the options which are available are limited to those which have been proposed and which have been

developed outside Ofgem. Further information about code modification is set out in chapter 6.

### **Competition**

- 5.10. Where appropriate IAs will assess whether there are significant positive or negative impacts on competition in relevant markets. If any of the options are likely to have a significant impact on competition (either positive or negative), this impact will be included in the summary section on costs and benefits.

### **Impacts costs and benefits**

- 5.11. Costs and benefits of each option will, where appropriate, be set out together with an assessment of their significance. Costs and benefits of each option will be identified relative to the same base case alternative. In most cases this will be the “do nothing” option.

### **Environment**

- 5.12. IAs will contain an assessment of the likely effects on the environment where these are considered to be significant or will state that the effects are not considered to be significant. Chapter 7 provides more detail about environmental impacts.

### **Security of supply**

- 5.13. Ofgem has undertaken to assess the impacts of proposals on security of supply. In most cases this will be a qualitative assessment.

### **Health and safety issues**

- 5.14. The statutory framework within which Ofgem works includes the requirement for Ofgem to carry out its functions in the manner which it considers best calculated to protect the public from dangers. The Health and Safety Executive and DTI Engineering Inspectorate are key consultees during policy development.
- 5.15. Ofgem’s IAs will only contain a section on health and safety impacts where policy proposals may have significant health and safety implications.

## **Distributional effects**

- 5.16. Where appropriate IAs will also consider whether a policy proposal gives rise to any material issues relating to unequal distribution of benefits or costs between groups or within a group, for example between rural and urban customers. IAs will also consider, in line with guidance issued by the Secretary of State, the social impacts of policy proposals<sup>10</sup>.

## **Small businesses**

- 5.17. Ofgem will, during policy development, consider the interests of small businesses in particular new entrants. An IA may, where appropriate, consider whether the impacts of an option would be substantially different on small or large firms or whether the impacts would affect new entrants differently.

## **Risks and unintended consequences**

- 5.18. Where possible significant risks and uncertainties will be identified, and where appropriate an analysis made of robustness to external shocks or flawed assumptions that could jeopardise the success of the policy option identified and lead to the outcome being other than forecast.
- 5.19. Where relevant an IA will set out the key uncertainties that may affect the impacts of a proposal. In particular where costs and benefits are quantified Ofgem may include an assessment of the robustness of the assumptions made.

## **Costs and benefits**

- 5.20. Ofgem considers that some issues are more amenable to robust quantification than others and that costs are in many cases more readily quantified than benefits. Ofgem recognises that there is scope to improve its quantification of costs and benefits but considers that in order to do this it will need the co-operation of industry.

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<sup>10</sup> Social and Environmental Guidance to the Gas and Electricity Markets Authority. 23 February 2004.  
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- 5.21. Ofgem considers that IAs will always be a mixture of qualitative and quantitative assessments. Qualitative assessments do not indicate that an issue is less important. Rather Ofgem is keen to avoid spurious quantification which could create a false impression of certainty. Where quantitative assessments are included they will often be as ranges which in some cases could be broad.
- 5.22. An initial consultation paper might conclude that, on the basis of the available evidence, the project should proceed, but that further analysis of costs and benefits should be carried out before any decision is implemented (with 'do nothing' remaining an option).
- 5.23. The costs and benefits sub-section will end with a summary that identifies any areas where Ofgem intends to carry out further work to assess impacts, or where the views of respondents are sought. The summary will include a table of costs and benefits for each of the options under consideration.

### **Review and compliance**

- 5.24. An IA will consider the different possible implementation options. There may, for example, be a choice between introducing a licence condition and developing an industry code of conduct. Where appropriate, IAs will also set out how Ofgem will check industry compliance and how it will assess the success of the policy once it is implemented.

### **Conclusion**

- 5.25. The final section will, where appropriate, explain which option has been chosen and why, by reference to the preceding sections of the IA. The emphasis will in many cases be on the results of the assessment of costs and benefits and on consultation responses received in relation to that assessment, though the other impacts (for example distributional effects) will be taken into account where these are significant.
- 5.26. The final decision will be taken in the light of Ofgem's statutory duties. Carrying out an IA facilitates Ofgem meeting its statutory duties by a structured way of setting out the different factors.

## 6. Industry code IAs

- 6.1. Ofgem has duties in relation to the gas and electricity codes which form the basis of the core industry agreements to which all market participants must conform.
- 6.2. The ability of code participants to propose changes in certain areas, for example in response to a changing commercial situation, is a fundamental part of the governance arrangements.
- 6.3. The code modification process is a mechanism available to industry to propose change over a range of policy areas from supply, metering and governance to trading and transmission policy<sup>11</sup>. In making a decision on code modifications Ofgem is exercising a function and there may be circumstances in which the decision by Ofgem could have significant impacts and would therefore be seen as being “important”.
- 6.4. Ofgem recognises the need to integrate the requirement for IAs within the existing code modification process. We will be working with the industry on how best to achieve this.

### **Whether modifications are “important”**

- 6.5. Ofgem will judge whether any modification proposal is “important” on a case by case basis, as with any decision.
- 6.6. When it receives a new modification proposal Ofgem will make a provisional assessment of “importance” in line with the tests set out in Section 5A and by having regard to the way in which similar issues have been dealt with in other governance structures. We shall indicate where we are intending to carry out an IA on our website and invite parties to comment.

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<sup>11</sup> Throughout this document, the term “modifications” is used to also include amendments to the CUSC.  
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## **Consultation**

- 6.7. Ofgem has to consult on IAs prior to reaching a decision on a proposal. The decision has to be made in a timely enough way so as not to jeopardise any Code implementation dates which are set within the process.
- 6.8. There may, however, be circumstances where the need for Ofgem to agree a proposed modification is considered to be so "Urgent"<sup>12</sup> as to prevent the production and publication of an IA, even if the proposal is considered to be "important".
- 6.9. If the Modification proposal is to be treated as "important" for the purposes of an IA, but there is a reason why Ofgem does not intend to carry out an IA, Ofgem will explain why.
- 6.10. The initial assessment of "importance" will be continually re-assessed in the light of the development of the proposal in the modification process.
- 6.11. Ofgem would expect that in the case of code modifications there would normally be only one round of consultation. The stages of consultation described in 4.14 would not, therefore, apply for most code modifications.

## ***Content of a modification IA***

- 6.12. A modification IA will consider the impact both of accepting a proposed modification and of rejecting it. In most cases the modification IA will set out Ofgem's provisional thinking.
- 6.13. As set out in Chapter 1, the size and content of an IA will vary on a case by case basis and will reflect the significance of the proposal's impacts and effects. IAs produced for the most significant proposals will be the most detailed and are likely to contain the most extensive analysis.

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<sup>12</sup> Urgent modifications are likely to exhibit at least one of the following characteristics: there is a very real likelihood of significant commercial impact upon the transporter, industry parties, or customers if a proposed modification is not treated as urgent; safety and security of the network is likely to be impacted if a proposed modification is not treated as urgent; and the proposal is linked to an imminent date-related event.

## 7. Environmental impacts

- 7.1. Under section 5A Ofgem's IAs must specifically identify the environmental impacts of a proposal. Ofgem's IAs will, where appropriate, consider the effects on air, water, land, wildlife, the countryside and the built environment as well as on people.
- 7.2. In conducting an IA, Ofgem will ensure that:
- ◆ options for solving a policy problem are considered from an environmental perspective, and that
  - ◆ impacts are examined over different timescales. Some impacts may arise immediately while others arise only in the long term.
- 7.3. As mentioned in Chapter 2 Ofgem must have regard to the effect on the environment of activities connected with generation, distribution or supply of electricity, and the conveyance of gas through pipes.

### **Impacts on the environment considered in an IA**

- 7.4. The section on environmental impacts within an IA will set out those potential impacts on the environment of a policy which Ofgem consider to be appropriate. The key impacts that Ofgem will seek, where appropriate, to address are:
- ◆ greenhouse gas emissions – consisting of: carbon dioxide emissions from power stations and gas end users, methane leakage from the gas transmission and distribution systems and sulphur hexafluoride leakage from electricity transmission and distribution, and
  - ◆ air quality pollutants – consisting of: oxides of sulphur and nitrogen emissions from power stations and oxides of nitrogen emissions from gas compressor stations.
- 7.5. Other potential environmental impacts may include:
- ◆ visual amenity issues, for example the impact of overhead lines and wind farms

- ◆ pollution of land and of surface and groundwaters as a result of oil leakage, and
- ◆ generation of waste.

### **Environmental costs and benefits**

- 7.6. Where possible, the IA will quantify the environmental costs and benefits of any particular proposal and consider how large the potential environmental impacts are in relation to other costs and benefits of the proposal. However, where impacts are relatively minor, then it may not be worthwhile to attempt to undertake a quantitative appraisal of costs and benefits. In such cases the IA will instead contain a qualitative assessment.
- 7.7. There are a range of methods that can be used to quantify and compare impacts, including those based on monetary values or ranking.
- 7.8. The IA will, where possible, base its quantification on physical amounts such as tonnes of carbon dioxide or sulphur dioxide. In the case of emissions of greenhouse gases, quantities will be converted to tonnes of carbon equivalent using global warming potential figures. Ofgem will also, in line with Treasury guidance, use values of carbon for illustrative purposes.

## Appendix 1 Published RIA Guidance

- 1.1 Better Policy Making: A Guide to Regulatory Impact Assessments is the Cabinet Office publication that provides comprehensive guidance for RIAs. It provides a useful checklist on the first page and Annexes 3 and 4 are of particular importance in looking at the competition assessment and the analysis of costs and benefits. The document can be found at:  
<http://www.cabinetoffice.gov.uk/regulation/scrutiny/ria-guidance.pdf>.
- 1.2 The Office of Fair Trading published Guidelines for competition assessment—A guide for policy makers completing Regulatory Impact Assessments in February 2002. This document provides information on applying the competition filter. The link to this document is: <http://www.offt.gov.uk/nr/rdonlyres/a7138977-6fe2-45de-be32-3ab6e767664a/0/oft355.pdf>
- 1.3 The National Audit Office (NAO) website contains a large amount of useful information about RIAs including an RIA checklist at the following site:  
<http://www.nao.org.uk/pn/01-02/0102329.htm>.
- 1.4 The NAO announced in December 2002 that it would be taking on the new role of independently evaluating RIAs. The Better Regulation Task Force (BRTF) selected ten 'bad' RIAs (with reasons given) and one 'good' RIA and recommended that these are examined in NAO's report. The Better Regulation Task Force Annual Report 2001-2002 contains more information on this:  
<http://www.brtf.gov.uk/docs/pdf/ar2002.pdf>
- 1.5 The NAO report Evaluation of Regulatory Impact Assessments Compendium Report 2004-5 together with the NAO report Evaluation of Regulatory Impact Assessments Compendium Report 2003-04 can be found at:  
[http://www.nao.org.uk/publications/nao\\_reports/04-05/0405341.pdf](http://www.nao.org.uk/publications/nao_reports/04-05/0405341.pdf) and  
[http://www.nao.org.uk/publications/nao\\_reports/03-04/0304358.pdf](http://www.nao.org.uk/publications/nao_reports/03-04/0304358.pdf)
- 1.6 The new Treasury 'Green Book' Appraisal and Evaluation in Central Government is a best-practice guide to appraisal and evaluation of policies and capital projects. It focuses on the area of cost benefit analysis and highlights the importance of having confidence in the accuracy and timing of cost benefit data. It also emphasises the importance of keeping the range of options wide and the

estimation of costs and benefits to a high level at the initial stages of an RIA. It is at: [http://www.hm-treasury.gov.uk/economic\\_data\\_and\\_tools/greenbook/data\\_greenbook\\_index.cfm](http://www.hm-treasury.gov.uk/economic_data_and_tools/greenbook/data_greenbook_index.cfm)

# Appendix 2 Impact assessments published by Ofgem

2.1 Impact Assessments pursuant to the Utilities Act 2000.

2.2 The following list sets out the IAs that have been published by Ofgem since 30 December 2003:

- ◆ 12/04 Testing domestic consumer take-up of energy services trial suspension of 28 day rule
- ◆ 21/04 Transco's National Transmission System Review of System Operator incentives 2002-2007: proposals document
- ◆ 39/04 NGC System Operator: Incentive scheme from April 2004 proposals and statutory licence consultation
- ◆ 50/04 Gas retail governance: final proposals
- ◆ 62/04 Electricity Distribution Price Control Review policy document
- ◆ 62c/04 Regulatory Impact Assessment for distributed generation and structure of distribution charges
- ◆ 62d/04 Regulatory Impact Assessment for Registered Power Zones and the Innovation Funding Incentive
- ◆ 83/04 National Grid Transco – Potential sale of network distribution businesses Agency and governance arrangements Regulatory Impact Assessment
- ◆ 84/04 National Grid Transco – Potential sale of network distribution businesses Allocations of roles and responsibilities between transmission and distribution networks - Regulatory Impact Assessment
- ◆ 131/04 National Grid Transco – Potential sale of gas distribution network businesses: Off-take arrangements

- ◆ 146/04 National Grid Transco – Potential sale of gas distribution network businesses Interruptions arrangements: Regulatory impact assessment
- ◆ 179/04 Making markets work for consumers – the regulation of gas and electricity sales and marketing proposals for the amendment of standard licence condition 48
- ◆ 196/04 –Transmission Investment for Renewable Generation - Initial Proposals
- ◆ 198/04 – Interruptions Arrangements, Conclusions document on framework
- ◆ 199/04 –Offtake Arrangements, Conclusions document on framework
- ◆ 201/04 – The Review of Top Up Arrangements in Gas - Conclusions Document
- ◆ 211/04 - Connection and Use of System Code Proposed Amendment CAP047: “Introduction of a competitive process for the provision of mandatory frequency response” Impact assessment
- ◆ 221/04 – Gas Quality Wet Gas Administration Scheme - Initial proposals
- ◆ 222b/04 – Electricity Distribution Price Control Review: draft impact assessment, and
- ◆ 226/04 Recommendations for best practice guidelines for gas and electricity network operator credit cover.
- ◆ 240/04 - Electricity transmission network reliability incentive schemes Initial proposals
- ◆ 241/04 - The proposed transmission charging methodologies of the GB system operator - An Ofgem consultation and Impact Assessment
- ◆ 250/04 - Financial ring-fencing for new and existing independent gas transporters - Initial proposals

- ◆ 255/04a – National Grid Transco – Potential sale of gas distribution network businesses Final Impact Assessment
- ◆ 265/04b - Electricity Distribution Price Control Review - Impact Assessment
- ◆ 279/04 – Transmission price controls and BETTA - Final proposals and impact assessment
- ◆ 282/04 – BETTA “minded to” statement on the interim discount for small transmission connected generators and impact assessment
- ◆ 288/04 – Transmission investment for renewable generation – Final proposals.
- ◆ 289/04 – Gas Quality: Wet Gas Administration Scheme - Final Proposals
- ◆ 07/05 - Grid Code Changes to Incorporate New Generation Technologies and DC Inter-connectors (Generic Provisions) – The Authority’s ‘Minded To’ decision letter and Impact Assessment relating to the National Grid Company’s H/04 Report to the Authority
- ◆ 08/05 – Consultation on Technical Requirements for Windfarms – The Authority’s ‘Minded To’ decision letter and Impact Assessment relating to the Scottish transmission licensees’ SA/2004 Report to the Authority
- ◆ 19/05 – Offshore gas production information disclosure - Initial consultation and draft impact assessment
- ◆ 25/05b – The proposed transmission use of system charging methodology of the GB system operator - An Impact Assessment: Appendix 7 The October IA
- ◆ 25/05a – The proposed transmission use of system charging methodology of the GB system operator - An Impact Assessment
- ◆ 51/05 – Reviewing the gas and electricity supply standard licence conditions: Consultation document – scope and timescale of the review,

- ◆ 57/05 - Transmission price controls and BETTA: statutory licence consultation, impact assessment, and consultation on the statements of the basis of transmission owner charges
- ◆ 68/05 - The provision of non-contestable connection services by DNOs: Amending licence Condition 4C of the Electricity Distribution Licence
- ◆ 137/05 - Governance in the Electricity Distribution Commercial Arrangements – Impact Assessment
- ◆ 139/05 - Gas transmission – new NTS entry points, reserve prices in auctions and unit cost allowances (UCAs), and
- ◆ 143/05 –3rd Party Proposal: Publication of Near Real Time Data at UK sub-terminals Modification Reference Number UNC 006 (0727).

From the end of June 2003 Ofgem committed itself to produce RIAs, including Environmental Impact Assessments, for all new significant policies. The following list sets out the Impact Assessments that Ofgem carried out before 30 December 2003:

- ◆ 43/03 Structure of electricity distribution charges: initial conclusions
- ◆ 44/03 Electricity distribution losses: initial proposals
- ◆ 68/03 Electricity Distribution Price Control Review: initial consultation
- ◆ 77/03 National Grid Transco: potential sale of network distribution businesses
- ◆ 87/03 Making markets work for consumers: the regulation of gas and electricity sales and marketing a review of standard licence condition 48
- ◆ 124/03 Electricity Distribution Price Control Review: update paper
- ◆ 142/03 Structure of electricity distribution charges: initial decision
- ◆ 170/03 National Grid Transco - potential sale of network distribution businesses: next steps (The RIA contained in this document was produced by ILEX, under commission from Ofgem and did not represent Ofgem's position), and

- ◆ 179/03 Making markets work for consumers - the regulation of gas and electricity sales and marketing proposals for the amendment of standard licence condition 48.