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Insights

THE CATO LICENCE - STARTING AS WE MEAN TO GO ON: VOLUME 7

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Introduction

As part of the government's wider review of the electricity transmission network via the Integrated Transmission Planning and Regulation Project, and after its successful introduction of competition to offshore transmission assets and their owners (OFTOs), Ofgem has continued to consult on introducing competitive tenders for the design, build and operation of onshore transmission assets, thereby creating Competitively Appointed Transmission Owners (CATOs). We have previously considered:

- the specific characteristics of CATOs;
- the difference between the development models proposed by Ofgem in its consultation — "early", "late" and "very late";
- the proposed revenue stream and incentives; and
- Ofgem's work on finalising an "early" model of competition, including the key commercial decisions confirmed in Ofgem's July 2025 decision document.

Ofgem committed to consult on the CATO licence later in 2025. On 19 August 2026, Ofgem published a non-statutory consultation on the draft CATO licence conditions, draft guidance, and a definitions schedule. This is not yet the formal statutory consultation that will modify the standard electricity transmission licence, that comes later. This is, in effect, a consultation before the consultation: an early, open opportunity for potential investors, developers, and financiers to shape the foundational document that will govern the lives of these 35-year regulated assets. The consultation closes on 16 October 2026.

In this, the sixth volume of our series, we look at what Ofgem has published, how the draft licence draws on the familiar OFTO model, where it departs from it, and where we think those tracking the CATO regime should focus their attention before the deadline.

Familiar where it can be...

Ofgem's stated drafting philosophy is to keep the CATO licence "familiar where it can be, specific where it needs to be." Those with an interest in this space will recall that a CATO is a competitively appointed transmission owner, selected via a competitive tender process and licensed to construct, own and maintain new onshore electricity transmission assets in Great Britain. The government's objective is clear: competitive tenders will increase innovation and efficiency with the aim of creating better value for end-customers because competitive pressures will expose true costs and competing bidders can put downward pressure on those project costs.

For those who have invested in, financed, or advised on OFTO transactions, Ofgem's use of OFTO precedent as the primary template for the CATO licence is significant and the two forms of licence will be very structurally similar: just as OFTO-specific provisions sit in Section E of the standard electricity transmission licence, the CATO-specific provisions sit in a proposed new Section F. Ofgem has adopted an equivalent "apply by direction" mechanism which means Section F applies to a CATO licensee only upon direction, mirroring the approach used to 'switch on' OFTO-specific obligations at the point of licence award.

At the level of individual conditions, the OFTO borrowing is extensive in two principal areas:

- Governance: the activities restriction, conduct of the transmission business (including the no unfair commercial advantage duty), separation and independence arrangements, restriction on use of information, and the compliance officer and committee regime are all carried across from the OFTO licence with minimal change. Practitioners who know the OFTO governance package will find these broadly recognisable, though it will be worth checking that they operate as intended in a construction-stage context that OFTOs do not share.
- Revenue: Ofgem has accepted the TRS model, familiar to those with an interest in OFTOs, and indexation of the TRS to CPIH. The "Allowed Transmission Owner Revenue (CATOt)" formula is built directly on the OFTO equivalent framework i.e. base revenue derived from the Tender Revenue Stream, adjusted for performance, indexation, pass-throughs, and reconciliation. The availability incentive is set at a 98% target (again in line with OFTOs) with mechanisms for availability measurement, service reduction adjustments, first and last periods adjustment, and seasonality adjustments. The annual revenue range of +5% to -10% appears to mirror the OFTO structure.

...Specific where it needs to be

The most important divergences from the OFTO licence appear to be structural consequences that flow from the key difference between CATOs and OFTOs: OFTOs are appointed after construction and CATOs are appointed before it begins. Each novel provision in the draft licence flows from that difference. In headline terms:

- Post-award security (Condition F39): CATOs must post security, following licence award, equal to 10% of forecast construction costs, capped at £50 million for projects up to £1bn in value. There is no OFTO equivalent. Critically, security remains in place during the preliminary works stage and construction stage, and tapers to 0% once investment equivalent in value to that security has been made. The licence goes further: preliminary works cannot commence until a custodian confirms the security is in place. The 30-day posting window from licence award is therefore operationally critical to project timelines and corporate structuring.

- PPWCA (Condition F46): the Post-Preliminary Works Cost Assessment is the central cost-reset gate between bid and Financial Close, recalibrating the TRS before the debt funding competition. The PPWCA allows for cost adjustments after a CATO has completed the preliminary works but before the main construction phase begins, and is intended to respond to design modifications, inflationary pressures and other unforeseen changes that may affect project costs between the initial bid and the end of preliminary works. It operates through five structured stages: indexation; a foreseeability test (on a "reasonably foreseeable by a diligent desktop bidder" standard); an economic and efficiency assessment; an upward adjustment cap (higher than 40% for the first tender) with high-impact, low-probability events such as force majeure excluded from the cap to mitigate against excessive risk premiums in bids; and a savings declaration and sharing regime. This is the most legally complex provision in the licence.

- Agreed Refinancing (Condition F48): an Agreed Refinancing will not be subject to gain share provisions applied to other refinancings. Any positive or negative impact of Agreed Refinancing would be fully passed through to consumers. This is a departure from the OFTO model, which includes a refinancing gain share in its allowed revenue formula. Under the CATO licence, the debt funding competition is intended to optimise financing costs upfront, with the benefit flowing entirely to consumers rather than being split. This will require careful modelling of refinancing covenants and optionality in financing documentation from the outset.

Where to focus before 16 October

Much of the OFTO-derived framework will be familiar to practitioners, and where those provisions translate well into the CATO context, they provide a sound and tested foundation. That said, familiarity should not breed complacency: where elements of the OFTO regime do not sit comfortably within the CATO structure, they should not simply be replicated without scrutiny.

On balance, however, we think the greatest scope for meaningful engagement lies with the novel provisions (those with no OFTO precedent) and it is here that respondents may wish to concentrate their efforts. In particular:

- PPWCA challenge rights: whether PPWCA determinations are made by direction (challengeable by judicial review) or by licence modification (appealable to the CMA on the merits) is explicitly flagged as an open point in the consultation. This is the most fundamental challenge rights question in the document because the PPWCA fixes costs and the target TRS commencement date for the debt funding competition. Ofgem has invited views. It warrants a substantive response.

- Investment-grade credit rating obligations: the draft licence imposes investment-grade rating requirements tied to construction and operational stages. The precise timing, consistency across lifecycle stages, and proportionality for different project sizes are all open points that Ofgem has flagged for comment.

- Construction-period security mechanics: the 30-day posting window and its gating effect on preliminary works will affect corporate and financing structures. Views on permitted security forms, credit rating floors, and custodian arrangements are all relevant.

- The "reasonably foreseeable" PPWCA test: this will shape bid-stage diligence standards and post-award record-keeping practices across the life of the regime. Clarity on the evidential standard, the scope of "contemporaneous information," and the treatment of NESO network planning publications would all be valuable outputs from the consultation.

What's next?

The urgency of the pipeline is underlined starkly by NESO's recent Beyond 2030 Electricity Transmission Update Report. Without reinforcement, NESO finds that balancing and constraint costs could increase approximately three times between 2031 and 2035 which is a figure that puts the commercial imperative for delivery into sharp relief. NESO's report recommends 43 network projects for development for delivery in the 2030s, with over half needed by the mid-2030s and sufficiently mature to progress now. Total recommended transmission investment beyond 2030 is approximately £89 billion.

The Beyond 2030 report is the strategic underpinning; the forthcoming tCSNP2 Refresh will be the specific vehicle through which projects will be identified for onshore early competition. NESO is currently assessing that pipeline with a view to confirming a first and subsequent cohort of CATO projects, with the first tender expected to launch in 2027. Net Zero will, by necessity, require large amounts of electrification in the UK, and private finance will be needed to meet a large part of the investment required to reinforce and upgrade the UK's electricity transmission system to meet Net Zero objectives. With approximately £89 billion of recommended beyond-2030 investment on the table and a regime designed to attract private capital at scale, the CATO asset class has the potential to be a material addition to the UK infrastructure investment landscape.

How can we help?

Ofgem will publish a further update in early 2027 before the statutory licence consultation follows. This non-statutory consultation is, therefore, an important opportunity to influence the foundational regulatory document for what is expected to be a long-term, inflation-linked, regulated asset class. At BCLP, we have tracked this space for over a decade, our lawyers have advised on a number of OFTO transactions, and we have been closely following the development of the CATO framework from its regulatory origins through to the publication of these draft licence conditions.

We are well placed to help potential bidders, developers, and funders to understand the draft conditions, assess their implications for project structures and financing, and prepare considered consultation responses. If you would like to discuss any aspect of the draft conditions or are considering your position ahead of the first tender, we would welcome the conversation.

Previous volumes

- Now that's what I call CATO: Volume 1
- CATO — better late than never: Volume 2
- Show me the CATO! Funding and financing — one follows the other: Volume 3
- The wait for CATOs is nearly over: Volume 4
- The wait for CATOs continues, but the picture might just be getting clearer: Volume 5
- Ofgem Signals New Momentum for CATO Programme

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