

**Stage 03: Assessment Consultation**

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase

# P252: Removal of Trading Parties' ability to submit two votes at elections of BSC Panel industry members

This proposal seeks to remove the ability of Trading Parties/Trading Party groups to cast two votes in the BSC Panel elections (one per Energy Account) and instead allow them one vote per Trading Party/Trading Party group.



Modification Group initially recommends  
Rejection of the Proposed Modification



High Impact:  
The BSC Panel and participants in Panel elections

P252  
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## About this document:

The purpose of this Assessment Consultation is to obtain views or further evidence from BSC Parties and other interested parties on matters discussed in this document. The P252 Modification Group will then discuss the consultation responses before making its recommendations to the Panel on 08 April 2010.

There are 2 parts to this document. This is Part 1. Part 1 provides details of the solution, impacts, costs, benefits and the potential implementation activities associated with this change. Part 2 (Attachment B) is the Assessment Consultation Questions response form, which includes all the questions highlighted in Part 1 of the Assessment Consultation document.

### Why Change?

Under the current Panel election voting process, **Trading Parties/Trading Party groups** are entitled to submit two voting papers. It is argued that not all Parties are aware that they can submit two votes and that simplifying the Panel elections process would increase participation. It is also argued that the current system can lead to organised tactical voting.

### Solution

P252 would amend Annex B2 so each Trading Party may submit only one voting paper in the BSC Panel elections.

### Impacts & Costs

P252 would impact those Parties voting in the BSC Panel election. The P252 Modification Group would welcome any views you have on the costs and impacts.

### Implementation

If Proposed Modification P252 is to be implemented the Group recommends that it is implemented

- On 24 June is an Authority decision is received on or before the 16 June; or
- Within 5 Working Days if an Authority decision

### The Case for Change

The majority of the Group believe that P252 does not better facilitate any of the applicable Objectives. Those members either believe that:

- There is no defect, and as such P252 does not address any issue and is neutral against the objectives; or
- Removing the ability for a Trading Party group that has both Supply and Generation interests to submit 2 votes goes against the principles of the current arrangements and is against competition.

The minority of the Group believe that P252 would better facilitate the Applicable BSC Objectives. They argue that simplifying the process would promote competition and increase participation in the process. They also argue that it is unfair that a Party who is purely Generation or Supply get to vote twice for their chosen Generation or Supply candidate. Where as a Party whose business has both a Generation side and a Supply side may split their vote between a Generation and Supply candidate.

### Recommendations

The initial view of the Group is to reject P252.

### Current Issue

Under the current Panel election voting process, **Trading Parties** are entitled to submit one vote for each Energy Account that they hold, Production and/or Consumption. Since each Trading Party will always have a Production and Consumption account it means that they will always have two votes.

Like Trading Parties, **Trading Party groups** are also entitled to submit one vote for each Energy Account that they hold. A Trading Party group is a group comprised of a Trading Party and every Affiliate of that Trading Party. Only one Trading Party in a Trading party group may submit voting papers.

There is an argument that not all Trading Parties/Trading Party groups are aware of this element of the Panel election process. This is supported by the figures for the 2008 elections which showed 59 votes received from 31 Trading Parties. It is clear that not all Trading Parties used both their votes (although the rationale for this behaviour cannot be inferred).

The proposer argues that regardless of the reason of why Trading Parties do not use both votes, the existence of the ability to cast two votes creates a number of issues:

- The current process does not reflect the principle of one party, one vote. The existence of Production and Consumption Accounts does not reflect a relevant distinction in the election of BSC Panel Members in respect of either the objectives of the Panel or its duties and powers. There is therefore no need for Trading Parties to have two votes;
- There is anecdotal evidence that the ability of Trading Parties to cast two votes has in the past led to tactical voting with a view to maximising the number of seats secured for a particular interest or constituency. Thus aligned Trading Parties could vote their production accounts one way, and consumption accounts another; and

The proposal would improve overall BSC governance by improving the accuracy with which industry Panel membership reflects the views of the electorate, making the process more accessible and transparent, and establishing better democratic accountability through 'one party, one vote'.

### Related change

The issue raised by P252 was first identified under [P251](#) 'Revision of the election process for BSC industry panel members'. P251 is a [Pending](#) Modification Proposal which also addresses the election of BSC Panel industry members. P251 is however targeted at a different aspect of the elections process, and does not address the number of votes cast by a Trading Party. The concern raised by P252 is therefore out of scope of P251.

## 3 Solution

P252 seeks to amend the Panel election process so that each Trading Party/trading party group only receives one vote. Currently:

- Section B of the BSC states:  
Trading Parties may appoint up to five persons as Panel Members by election in accordance with Annex B-2
- Annex B-2 states:  
3.1.2 Subject to paragraph 3.1.3, each Trading Party may submit one voting paper for each Energy Account which is held by that Trading Party.  
3.1.3 Only one Trading Party (the “voting” Trading Party) in a **trading party group** may submit voting papers.

P252 would amend Annex B2 3.1.2 to state:

- Subject to paragraph 3.1.3 each Trading Party may submit one voting paper.

### Potential Alternative solution?

The P252 Group discussed if there was an Alternative solution. The only alternative proposal that the Group could conceive was to disaggregate Trading Party groups into the constituent Trading Parties so that each Trading Party received a vote. It could be further contemplated that all BSC Parties should be able to vote. However, such a proposal would mean that larger integrated Parties would receive significantly more votes than independent Parties. None of the Group believed that this would be better than the applicable objectives as it would be detrimental to competition and efficiency. Therefore no Alternative has been put forward.



#### Trading or BSC Party?

A Trading Party is a Party who holds Energy Accounts.

A BSC Party is a Party means a person who is for the time being bound by The Code by virtue of being a Party to the Framework Agreement.

## 4 The Case for Change

Whilst considering the case for change the P252 Modification Group considered the following 3 areas.

### Rationale of 2 voting papers per party

The P252 Group discussed why the current voting system existed. Those members that had been involved with the governance work streams at NETA Go-Live believed that the intention had been to create a system whereby:

- Suppliers (i.e. those with consumption accounts) receive one vote to elect a representative to the Panel to address Supplier issues.
- Generators (i.e. those with production accounts) receive one vote to elect a representative to the Panel to address Generator issues.
- Those parties who have both generation and supplier aspects to their business would receive two votes; one for their supply side and one for their generation side.

However, all Trading Parties have both consumption and production accounts regardless of whether they are Generators, Suppliers or both. Therefore in practice all Parties receive 2 votes.

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## How reflective is the elections process?

It is believed that under the current arrangements some Parties are not aware that they can cast 2 votes in the election. It is argued that simplifying the process would increase Participation in the elections and make the outcome more reflective of the votes cast.

The P252 Group discussed this principle and questioned if removing 2 votes would indeed make the voting more reflective. Members argued that Participants with both Generation and Supply sides to their business should still have the ability to vote twice, to elect 2 Panel members one with expertise in Generation and one with Supply expertise, as outlined in the rationale section above. The Group were however curious as to why Parties did not use both of their votes.

### Question 1

If your Trading Party does not use both votes, or does not vote at all during a BSC Panel election, please let us know why.

The Group invites you to give your views using the response form in Attachment B.

### Question 2

Do you believe that the solution proposed under P252 would lead to a more reflective elections process?

The Group invites you to give your views using the response form in Attachment B.

## Organised Tactical Voting

Under the current system a Trading Party could submit either one or two votes. If they submitted two votes it would be possible to vote for different candidates on each voting paper. A question was raised as to whether or not this was tactical voting. The Group agreed that such behaviour could be called tactical voting, but that this was completely fair and acceptable within the current system.

A member noted that tactical voting wasn't an issue, but Parties colluding together to block vote might be. For example 12 Trading Parties getting together and agreeing how to use their 24 votes. It was questioned if such a scenario was really feasible, and if it were feasible, is it really an issue as Parties can vote as they please. The proposers representative commented that whilst some might view block voting as acceptable, it is harder for smaller participants to create an organised block of votes than it is for the larger integrated Parties. They believed that P252 would not eliminate the potential for block voting, but it would simplify the structure of the election process to reduce the ability to block vote.

### Question 3

Do you believe that organised tactical voting (block voting) is an issue in the Panel elections process?

The Group invites you to give your views using the response form in Attachment B.

## Applicable BSC Objectives

The majority of the Group do not believe that P252 better facilitates the Applicable BSC Objectives. Those members either believe that:

- There is no defect, and as such P252 does not address any issue and is neutral against the objectives; or
- Removing the ability for a Trading Party group that has both Supply and Generation interests to submit 2 votes goes against the principles of the current arrangements and is against competition.

The minority of the Group believe that P252 would better facilitate the Applicable BSC objectives. They argue that simplifying the process would promote competition and increase participation on the process. They also argue that it is unfair that a Party who is purely production or consumption gain, in principle, an extra vote than those Parties who are both production and consumption. For example a Party whose business has both a Generation side and a Supply side can cast two votes, one for a Supplier representative and one for a Generator representative at the Panel. If that principle is followed then a Party who is purely a Supplier could cast two votes for a Supplier representative and would not have to 'split' their votes between a Supplier and Generator candidate.

The Group's views against the applicable objectives are captured in the following table.

Applicable Objective (c) - Promoting effective competition in the generation and supply of electricity and in the sale and purchase of electricity.	
Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Simplifying the elections process means it is easier to understand for all Parties, increasing participation.</li><li>• Reduced ability for organised tactical voting means all parties votes are equal.</li><li>• Parties with both Generation and Supply elements to their business have the same voting opportunity as those who have just Generation or Supply elements.</li></ul>	<ul style="list-style-type: none"><li>• Removing the opportunity for Parties with both Generation and Supply elements to their business from voting for each of these elements introduces discrimination compared to those Parties who have just Generation or Supply elements.</li></ul>

Applicable Objective (d) - Promoting efficiency in the implementation and administration of the balancing and settlement arrangements.	
Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Greater participation in the election process and more reflective voting improves the overall governance of the Code.</li></ul>	None identified

### Question 4

Would P252 Proposed Modification help to achieve the Applicable BSC Objectives compared to the current baseline?

The Group invites you to give your views using the response form in Attachment B.



### Recommendation

Modification Group initially recommends rejection of P252

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## 5 Impacts & Costs

### Costs

ELEXON Cost		ELEXON Service Provider cost	Total Cost
Man days	Cost		
3	£720	£000	<b>£720</b>

### Impacts

Impact on BSC Systems and process	
BSC System/Process	Potential impact
BSC Systems	None

Impact on BSC Agent/service provider contractual arrangements	
BSC Agent/service provider contract	Potential impact
BSC Agent/service providers	None

Impact on BSC Parties and Party Agents	
All Trading Parties (generators, Suppliers, non-physical traders, Interconnector Error Administrators and Interconnector Users) are eligible to vote in Panel elections and will be equally impacted by this Modification Proposal.	

Impact on Transmission Company	
None. The Transmission Company is not eligible to vote for Industry Panel Members, as it appoints its own member of the Panel.	

Impact on ELEXON	
Area of ELEXON's business	Potential impact
Panel administration	ELEXON would need to adopt the proposed solution for future Panel elections.

Impact on Code	
Code section	Potential impact
Section B	Annex B-2 will be impacted as a result of updating the election process.

Impact on Code Subsidiary Documents	
None	

Other Impacts	
None	

## 6 Implementation

The Group recommends that P252 is implemented

- On 24 June is an Authority decision is received on or before the 16 June; or
- Within 5 Working Days of an Authority decision

### Question 5

Do you support the Groups preferred implementation approach?

The Group invites you to give your views using the response form in Attachment B.

## 7 Further Information

More information is available in

Attachment **A**: Legal Text Proposed

Attachment **B**: Assessment Consultation questions and response form

A complete version of the consultation and impact assessment responses received are available on the P252 page of the ELEXON website.