

Industry Code and Licensing Team  
Office of Gas and Electricity Markets (Ofgem)  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

Email: [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk)

1<sup>st</sup> February 2023

Dear Ofgem,

### **Call for Input: Energy Code Reform**

Please find attached Xoserve's responses to the questions asked by your Call for Input, issued on 14<sup>th</sup> December 2022. This letter provides an overview of the key tenets of our detailed responses.

### **Code Consolidation**

We agree with the design principles proposed. We also consider that consumers could benefit by combining code management and code system delivery activities. This would improve coordination and better facilitate industry change.

In terms of which codes to consolidate, we agree that the 'vertical' option is the obvious choice for consolidation, particularly given the significant differences in how the gas and electricity markets currently operate. Some of the ideas outlined under the "no consolidation" option could be undertaken in parallel and offer quick wins with few or no regrets.

We believe that the current arrangements in the gas market evidence that it is possible for a single organisation to manage a uniform code which spans all upstream activities for a particular fuel.

Our conclusions, therefore, are:

- Options 1A and /or 1B offer a no regrets step from a gas perspective.
- We suggest starting with the UNC and IGT UNC consolidation as an early win, given the commonality across them, with electricity consolidation to follow. We would be keen to ensure that IGTs retain their voice in respect of IGT specific arrangements.
- In parallel with consolidation, consider removal of unnecessary clauses, adopting common objectives and terminology, and introducing the ability for code administrators/managers to raise modifications.
- In the longer term, Option 4B (effectively vertical for wholesale and horizontal for retail) seems to represent the simplest and, therefore, most desirable end state.
- We see Option 4C as offering a good interim stepping-stone to option 4B for electricity. That said, we see limited benefit of separating UNC and IGT UNC into Gas Wholesale and Gas Networks but there may be merit in keeping the part of IGT UNC which covers networks separate, especially given the introduction of the Future Homes Standard in 2025.

We note that there may be an opportunity to take a different path for new fuels, such as hydrogen, where the design of the markets and associated code arrangements can be undertaken from scratch.

With regard to implementation, we agree that creating single, overarching governance provisions, as described in Option 2, would both reduce complexities and likely facilitate more efficient and effective delivery of the code manager's functions upon appointment.

### **Licence conditions**

We do not believe any of the currently proposed licence provisions are unnecessary or should be covered elsewhere. We do believe, however, that it is in the best interests of consumers for Ofgem to be able to consider all organisations with the right skills and experience to become a Code Manager, including organisations already operating on a not-for-profit basis in the industry. We are pleased to see that this scenario is still being contemplated but believe that proactive steps will need to be taken to facilitate the participation of not-for-profit organisations.

In addition to contemplating different types of organisation, we believe the duration of the licence should be carefully considered, to ensure that the code manager focusses on long-term initiatives as well short term results and can be held accountable for delivering to its strategic promises and vision before its licence expires.

### **Stakeholder advisory forums**

To some extent, we believe that the stakeholder advisory forum's key role should not be too far from code modification panels currently, in that the forum should be capable of drawing representatives from across the energy industry and beyond to inform the Code Manager of the factors which should be taken into consideration. A stakeholder advisory forum, either within each set of codes or across the market, could also be used to help inform the content of both the strategic direction of the energy market as a whole and the Code Manager delivery plans.

We also advocate representation from outside the industry, in order to understand the consumer point of view, both domestic and business.

To be effective, a stakeholder advisory forum must provide a place where representatives are incentivised to attend through the sense that their voice matters. Those representatives must be able to collectively contribute a well-rounded view and be sufficiently informed to be able to contribute meaningfully to discussions about the future state. We believe that the quality of decision documentation will also be crucial to success, bringing out what views were shared and why a specific decision was reached to avoid stakeholders feeling that they're not being heard.

We have captured in our detailed response a few challenges we have encountered with the current code governance arrangements and the lessons we learnt.

### **In conclusion**

We hope you find our response of interest. My team and I would be delighted to discuss this in more detail with you or to answer any questions you might have.

Kind regards,

A handwritten signature in black ink, appearing to read 'Stephanie Ward'.

Stephanie Ward  
Chief Executive Officer

## Ofgem Call for Input: Energy Code Reform Xoserve Response - 1<sup>st</sup> February 2023

Responses also sent in response Excel

#	Question	Comments
<b>Code Consolidation - Proposed Design Principles</b>		
Q1	Do you agree with the design principles proposed to frame our assessment of code consolidation options? If 'no', please explain why.	<p><b>Yes, we agree with the design principles proposed. We also consider that consumers would benefit by combining code management and code system delivery activities. This would improve coordination and better facilitate industry change.</b></p> <p>We are particularly pleased to see specific mention of a design principle focussed on the need to enable both the ongoing effective governance and operations of the central systems that underpin the codes and the effective co-ordination between Code Managers and Central Systems Delivery Bodies. Keeping this in mind will help continuity of delivery and help to minimise costs of changes, not just to change central systems delivery arrangements but also for each market participant who interfaces with us.</p> <p>As noted above, we believe that there is opportunity to improve the co-ordination between code management and code delivery (the central systems and processes undertaken by the central bodies) even further, through a more ambitious approach: the amalgamation of accountability for the code manager and central system delivery function activities into a single organisation, which can then integrate the operationalisation of the strategic direction for codes into one seamless approach. In effect: a 'code integration function'.</p> <p>We described this in our response to the previous consultation and are happy to elaborate on it further at the next stage of this consultation. We believe this would be in the interests of both the Government and consumers because it would:</p> <ul style="list-style-type: none"> <li>• combine the assessment, management and delivery of industry-wide change into one holistic activity, considering both the operational and systems implications of code changes simultaneously;</li> <li>• as a result, improve the efficiency of code changes, allowing them to be delivered more quickly with resulting reduction in industry overhead for the benefit of end consumers; and</li> </ul>

#	Question	Comments
		<ul style="list-style-type: none"> <li>simplify the governance structure for code management, reducing the number of industry bodies and thus saving cost for the benefit of consumers.</li> </ul> <p>We appreciate that there may be concern over perceived conflicts of interest. We believe these can be mitigated relatively easily and have set out in our response to Q6 how we would envisage doing so.</p>
<b>Code Consolidation - Which codes to consolidate</b>		
Q2	What are your views on the high-level options for code consolidation we have described ('no consolidation', 'vertical' & 'horizontal')? We welcome input on the possible benefits/disbenefits of each option.	<p><b>We agree that the 'vertical' option is the obvious choice, particularly given the significant differences in how the gas and electricity markets currently operate. As noted in Cornwall Insights' analysis, the gas market is already mostly consolidated and bringing UNC and IGT UNC together would complete that consolidation for gas in one single step.</b></p> <p>We believe that some of the ideas outlined under the "no consolidation" option could be undertaken in parallel, offering quick wins with few or no regrets.</p> <p>We do not favour the 'horizontal' option, whereby wholesale/ 'upstream' codes are merged across gas and electricity. While retail codes are already horizontally integrated, it seems to create more complexity in the wholesale space, where Ofgem have recognised there are limited synergies between the arrangements for different fuels. The lack of clarity about the future of natural gas also raises questions as to whether this is a worthwhile exercise at this stage.</p> <p>With this in mind, we also note that there may be an opportunity to take a different path for new fuels, such as hydrogen, where the design of the markets (and thus the code arrangements) can be undertaken from scratch if desired.</p>
Q3	Do you agree with our initial preference to explore vertical code consolidation options and, if so, do you have any observations on the potential models* set	<p><b>As noted in our response to Q2, we agree that it makes sense to start with the 'vertical' code consolidation options. We think that some of the 'no consolidation' activities could be considered in parallel, such as the simplification of codes by removal of unnecessary clauses, the adoption of common objectives and terminology, and the introduction of the ability for code</b></p>

#	Question	Comments
	<p>out in Cornwall Insight's April 2022 report? We welcome specific views on the following:</p> <ul style="list-style-type: none"> <li>• Whether the UNC and IGTUNC should be consolidated;</li> <li>• If/how to consolidate the electricity codes;</li> <li>• Whether the REC and SEC should remain separate; and/or</li> <li>• Whether the consolidation of any codes should be prioritised, and if so, why.</li> </ul> <p><i>*See shortlist options 1A, 1B, 4B and 4C in Cornwall Insight's April 2022 report.</i></p>	<p><b>administrators/managers to raise modifications. We also believe it makes sense for UNC and IGT UNC to be consolidated at some point.</b></p> <p>IGT UNC mirrors UNC in a significant number of areas but many of the conversations around changing the market arrangements happen at UNC Mod panel before corresponding updates are then made to IGT UNC to align. Managing the IGT UNC separately therefore creates a disconnect in the governance processes. As long as the IGTs can retain involvement in the management of IGT-only areas, consolidation of UNC and IGT UNC would seem to offer an early opportunity to reduce governance overheads across gas market participants and allow a holistic view to be taken across all gas market stakeholders in one place.</p> <p>Although we do not participate in the delivery of services to the electricity market, we undertake many of the equivalent processes in gas. Based on this experience, we believe consolidation of the 7 non-retail electricity codes will likely be complex. While we are of the view that this should potentially be the ultimate aim, we consider that it would be sensible to commence the consolidation of electricity codes by theme, such as in the suggestions in Options 1A &amp; 1B, although we question whether option 1B might create too much of a gap between the operation of the commercial activities and the underpinning transmission/ distribution infrastructure.</p> <p>We agree that a single code manager across all aspects of electricity and gas would likely be too large and unwieldy for a single code manager to handle effectively, especially given the significant differences in how the two markets operate. But we believe that the current arrangements in the gas market evidence that it is possible for a single organisation to manage a uniform code which spans all upstream activities for a particular fuel.</p> <p>At this point, we do not see a benefit of consolidating REC and SEC as they focus on different outcomes for consumers. Should significant overlaps and synergies between the two be identified as code consolidation progresses, this could be considered at a future point.</p>

#	Question	Comments
		<p>We also do not see any benefit of separating UNC and IGT UNC into separate codes for Gas Wholesale and Gas Networks to achieve horizontal code consolidation, which seems to be a retrograde step in the mission to consolidate and simplify.</p> <p>Our conclusions, therefore, are:</p> <ul style="list-style-type: none"> <li>Options 1A and /or 1B offer a no regrets step from a gas perspective.</li> <li>We would suggest starting with the UNC and IGT UNC consolidation as an early win, given the commonality across them, with electricity consolidation to follow. We would be keen to ensure that IGTs retain their voice in respect of IGT specific arrangements.</li> <li>Option 4B (effectively vertical for wholesale and horizontal for retail) seems to represent the simplest end state and is therefore most desirable from an 'outcomes' perspective.</li> <li>We see Option 4C as offering a good interim stepping-stone to option 4B for electricity, although we see limited benefit of separating UNC and IGT UNC into Gas Wholesale and Gas Networks as envisaged in that Option. We recognise, however, that there may be merit in keeping the part of IGT UNC which covers the network aspect of IGT operations separate when looking at gas code consolidation, especially given the introduction of the Future Homes Standard in 2025.</li> </ul>
Q4	<p>Do you agree with our preferred implementation approach (Option 2)?</p> <ul style="list-style-type: none"> <li>If so, do you have any additional observations on what we should consider when further developing this approach, including which code provisions</li> </ul>	<p><b>We see no benefit to Option 1 (common contractual framework only) over Option 2 (which is Option 1 + common governance) and agree that creating single, overarching governance provisions would reduce complexities and would likely facilitate more efficient and effective delivery of the code manager's functions upon appointment.</b></p> <p>For UNC and IGT UNC code consolidation, we believe that the modification rules for the application of changes to both codes could be synchronised with provision made for appropriate IGT input to allow all modifications to be discussed via one route where all stakeholders are represented.</p>



#	Question	Comments
	<p>should be considered within the scope of governance arrangements?</p> <ul style="list-style-type: none"> <li>If not, please provide details.</li> </ul>	
<b>Code Manager Licensing - content</b>		
Q5	<p>Are any of the contents we have identified for the licence conditions unnecessary, or, would be more effectively covered outside of the licence (eg in the codes)?</p>	<p>We do not believe any of the provisions are unnecessary or should be covered outside the licence.</p> <p><b>We do believe, however, that it is in the best interests of consumers for Ofgem to be able to consider all organisations with the right skills and experience to become a Code Manager, including organisations already operating on a not-for-profit basis in the industry. We are pleased to see that this scenario is still being contemplated but proactive steps will need to be taken to facilitate the participation of not-for-profit organisations.</b></p> <p>Any licencing regime which inadvertently precludes some parties from being appointed into the role, such as those who are not able to accept contractual liabilities as they are "not-for-profit", might not be in the best interests of consumers because:</p> <ul style="list-style-type: none"> <li>Not-for-profit organisations can devote the entirety of their skills, knowledge and capabilities to focus on driving forward their core purpose* because they are not distracted by the need to target a certain financial performance</li> <li>They have no conflicting interests which may benefit from promoting (or constraining) industry change</li> <li>There is a far lower risk of financial failure since their budgets are set at a level that is fit for purpose to fund all their activities</li> <li>They can deliver good value compared to companies whose owners/ shareholders have an expectation of a certain level of profitability, as there is no profit margin to add to costs</li> <li>Those operating in the industry for some time have the deep industry expertise, historical knowledge and contextual understanding needed to successfully undertake the complexities of code management and industry stakeholder engagement.</li> </ul>

#	Question	Comments
		<p><i>*in this case to deliver the strategic vision through effective planning, code management and code operation</i></p> <p><b>In addition to contemplating different types of organisation, the duration of the licence should be carefully considered.</b> While a short term provides an incentive to deliver quickly, the Licence needs to be long enough to ensure that:</p> <ul style="list-style-type: none"> <li>(i) the code manager focusses on long-term initiatives as well as those delivering results in the short term; and</li> <li>(ii) the code manager can be held accountable for delivering to its strategic promises and vision before its licence expires.</li> </ul>
Q6	Are there any additional areas that should be subject to licence rules?	<p><b>We have not identified any specific additional areas per se, but have identified some sub-areas that we think merit further consideration</b>, most notably:</p> <ul style="list-style-type: none"> <li>• Could the Licence be used to create a framework to incentivise the code manager to ensure costs are fit for purpose and strike the right balance between quality of service, effectiveness and ultimate cost?</li> <li>• Should the Licence contain provisions to ensure that the Code Manager has budget flexibility across its activities in order to effectively manage changing priorities and respond to unexpected events in year across its scope, without needing to build flex and therefore contingency into each specific activity?</li> <li>• Should the Licence contain requirements around what is needed to evidence that a suitable balance has been made between the need to respect stakeholders' views and the ability of the Code Manager to make decisions?</li> <li>• Should the Licence require commercial organisations to ring-fence industry knowledge and expertise built up over years to protect against their loss to more lucrative markets?</li> <li>• Is there benefit in the Licence contemplating the closer combination of Code Management and the delivery of the systems and processes which support the operation of code? We believe that this could deliver significant efficiencies in the assessment, management and delivery of industry-wide change by combining it into a single, holistic activity looking</li> </ul>



#	Question	Comments
		<p>simultaneously at both the operational and systems implications of code changes.</p> <p>As noted in our response to Q1, we believe that the last sub-area could offer significant benefits to the industry and consumers and have described why in that response. Conflicts of interest could be mitigated by</p> <ul style="list-style-type: none"> <li>• establishing arms-length, commercial contracts for the delivery of certain services;</li> <li>• ensuring that the "code integration function" is explicitly focused on delivering what is in the best interests of consumers and the transition to Net Zero, via its licence; and</li> <li>• employing a not-for-profit organisation as the "code integration function", thereby removing financial incentives that might inadvertently create such conflicts.</li> </ul>
Q7	Do you agree with our indicative prioritisation for policy development, and do you identify any specific dependencies that you think we should factor into our policy considerations?	<b>We agree with the indicative prioritisation suggested and have not identified any specific dependencies at this stage.</b>
<b>Code Manager Licencing - Code owners</b>		
Q8	Are there any issues that we should take into account when considering moving the current 'code owner' licence provisions to the new code manager licence (such as unintended consequences)?	<p><b>We have not identified any specific issues yet. We believe that building up a deep understanding of the current 'code owners' interests will assist the identification of the implications of moving their licence provisions to the new code manager.</b></p> <p>In the case of gas codes, the impacts would extend across the gas transporters: National Grid, Distribution Networks and Independent Gas Transporters.</p>
<b>Stakeholder Advisory Forum</b>		
Q9	What do you think the stakeholder advisory forums' key roles and/or functions should be, and what	<b>To some extent, we believe that the stakeholder advisory forum's key role should not be too far from code modification panels currently, in that the forum should be capable of drawing representatives from across the energy industry and beyond (e.g.</b>

#	Question	Comments
	areas (other than code change) should the forum(s) potentially have a role in?	<p><b>consumer representatives and/or major energy users) to inform the Code Manager of the factors which should be taken into consideration when implementing changes to codes or when considering the wider requirements of a delivery plan.</b></p> <p><b>A stakeholder advisory forum, either within each set of codes or across the market, could also be used to help inform the content of both the strategic direction of the energy market as a whole and the Code Manager delivery plans.</b></p>
Q10	What options/issues should be considered in terms of constituting the stakeholder advisory forum(s), in terms of membership and securing appropriate representation?	<p><b>To be effective, a stakeholder advisory forum must provide a place where people are incentivised to attend through the sense that their voice matters, facilitating effective and timely discussions and the acceleration of market (and fuel) transformation.</b></p> <p><b>Those representatives must be able to collectively contribute a well-rounded view and be sufficiently informed to be able to contribute meaningfully to discussions about the future state on behalf of the parties they represent.</b> We would also advocate representation from outside the industry, in order to understand the consumer point of view, both domestic and business. However, there is then a risk that the scale of representation makes the forums unmanageable.</p> <p>The approach to managing the Data Services Contract (DSC) between Xoserve and its gas market customers could offer a model to keep representation to a manageable level. In this example, each customer constituency (e.g. Shippers, Distribution Networks, Independent Gas Transporters) nominates representatives to the DSC Contract Management committee, to reflect the views of that constituency, thus reducing the number of potential attendees from 85 down to 12.</p> <p>The inclusion of so many perspectives could also create a risk that, whatever decision is made, a significant number of attendees feel ignored or unheard. <b>We therefore believe that the quality of any documentation describing Code Managers' decisions will be crucial to the successful operation of these forums. This will need to bring out what views were shared and why a specific decision was reached, to</b></p>

#	Question	Comments
		<p><b>avoid a sense of not being heard by the stakeholders who attended the advisory forum.</b></p> <p><b>We also consider that there may be a need to differentiate the role of a stakeholder advisory forum between the facilitation of changes which make a fundamental change to industry scope and or costs, and those changes which reposition obligations and/or costs between industry participants.</b> In the latter case, consensus is impossible because there are always winners and losers who will hold opposing views. A stakeholder advisory forum would be valuable to surface such opposing views, but care must be taken not to require a consensus of views as the output of any discussions held, so as not to inhibit the ability of the Code Manager to progress such changes where they consider it appropriate.</p>
Q11	Are there any lessons learnt (either good or bad) from the current code arrangements that should be considered?	<p><b>Reflecting on our recent experiences, we have captured a few challenges we have encountered with code arrangements, along with suggestions of how they might be overcome.</b></p> <ul style="list-style-type: none"> <li>Decisions can take an extremely long time, as consensus is often sought before Ofgem provide a final approval. <u>Lesson:</u> the code manager must be given the appropriate empowerment to make decisions without requiring consensus from stakeholder advisory forums, industry participants or other bodies but, to ensure that stakeholders remain incentivised to attend those forums, should be required to demonstrate that all the views provided have been taken into consideration. This approach needs to be understood and accepted by the market.</li> <li>Panels and forums are currently under populated. Often no delegate can be found to take up specific posts on the panels and/or forums leading to lack of quoracy and/or a lack of credibility. <u>Lesson:</u> ensure that it is demonstrably worth-while for market participants to send their representatives to forums with clear and specific terms of reference. Lack of definition of what good looks like for decisions can be at the heart of an overarching lack of engagement. This could be at least partially addressed by templates and training, with training extending to market participants</li> </ul>

#	Question	Comments
		<p>so each representative at any forum understands what to expect and what is expected of them.</p> <ul style="list-style-type: none"><li>• Dispute processes can get used for the wrong reasons, which creates additional workload and cost.</li></ul> <p><u>Lesson:</u> Consistent frameworks and governance across the codes could standardise outputs, reducing the likely scope of disputes and providing clear guidance on the application of any dispute processes. Dispute processes must be designed to ensure Code Manager decisions are sound, while also avoiding the potential for Code Manager decisions to be open to frequent challenge for non-material reasons, resulting in referral to Ofgem as the strategic body/competent authority.</p>