

Sent by email to [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk)

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## **Octopus Energy's Response to Ofgem's Energy Code Governance Reform Consultation**

We welcome Ofgem continuing the work on code governance reform. While it is administrative and technical in nature, industry rules and standards must change if the energy industry is to achieve net zero while ensuring an efficient and resilient energy system. The CMA found in its review published in 2016 that current governance arrangements allow vested interests to slow down the pace of change and thwart these strategic and important objectives.<sup>1</sup>

Therefore, we fully support the reforms and functions set out in the draft Energy Security Bill that will enable Ofgem to fulfil its new strategic role and to license new code managers. These changes are essential to ensure code governance no longer limits innovation and is able to keep pace with new and evolving policy objectives. In order to ensure this new approach is as effective as it can be and does not repeat the mistakes of the past, this will require:

- Codes and licenses which reflect these objectives
- Transparent election of impartial code managers, with clearly defined roles and responsibilities; and
- SAFs that retain existing industry knowledge but at the same time represent the ever changing diversity of business types and interest groups operating in the market.

We see code consolidation as a lower priority than reform of governance arrangements. We view that lighter touch measures such as simplification and digitalisation of the codes will deliver equal or greater benefits than code consolidation and should be prioritised whether consolidation happens or not. However, if Ofgem decides to press ahead with code consolidation then we agree that vertical consolidation makes most sense as parties are likely to interact up and down the electricity or gas value chain but are less likely to interact across vectors. At this stage, we do not view that it is appropriate to combine the REC and SEC as the scopes of these codes remain discrete and they are currently at very different levels of maturity. Finally, if Ofgem decides to push ahead with code consolidation then we recommend that extensive stakeholder engagement is conducted to determine the most useful way to combine codes, based on the experiences of those that engage with codes most frequently.

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<sup>1</sup> Competition and Markets Authority (CMA), Energy market investigation, [final report](#), 2016

### **Code consolidation options**

Firstly, we would appreciate further clarity from Ofgem on what exactly is meant by code consolidation and what the objective is. If the exercise is simply to merge codes without simplifying and removing repeated information, then we do not view that this would drive any efficiencies and could actually complicate the interaction process for stakeholders.

We are not convinced that the efficiency improvements achievable from any type of consolidation are worth the effort and resource investment. Overall, given the extent of change needed in the market to deliver net zero and Ofgem's current workload - often enabling much of this reform, we view that code consolidation should be considered a low priority. Industry appreciates that resource is limited at Ofgem and we would not want prioritisation of code consolidation to result in delayed progress across other reforms that are more fundamental to drive industry progress towards delivery of net zero. We view that successful delivery of the provisions within the Energy Bill, specifically Ofgem taking on the role of the strategic body over the codes and alongside licensed code managers, will be far more impactful at driving efficiencies. Instead we urge that Ofgem focusses on clearly defining the bounds of these new responsibilities and transitional arrangements to allow the new governance framework to be implemented as efficiently and effectively as possible. Given code panels are due to be disbanded and more power is to be transferred to code managers, ensuring impartiality of the elected code managers is essential. We urge Ofgem to set out in more detail how these code managers will be selected so as to instil trust from industry in Ofgem's processes under these new governance arrangements.

Rather than prioritising consolidation of any specific codes, Octopus views that simplification and digitalisation of the codes in their current form will drive greater improvements. This will aid user navigation and make codes more accessible to a wider audience - improving stakeholder accessibility and engagement.

Nonetheless, if Ofgem decides to move forward with code consolidation then we view that vertical consolidation has the potential to drive more efficiencies than horizontal consolidation. Consolidation must be considered from the perspective of those that interact frequently with the codes. In this vein, it is likely that certain individuals within a company will specialise by function eg. there may be a need to interact with the grid code, DCUSA and CUSC for a single prospective site and by one individual, but it is far less likely that one individual will need to consult the UNC alongside any of the electricity codes. Therefore, we have a preference for grouping by technical similarities rather than by fuel type. We urge Ofgem to undertake wider stakeholder engagement to understand which codes certain users tend to interact with, if code consolidation remains a priority. This

should allow Ofgem to improve its understanding of areas of overlap between codes to better work out how to merge and combine codes in order to improve user interaction.

We do not support consolidation of the REC and SEC at this stage. The SEC is still relatively new and is evolving fairly rapidly, whereas the REC is in a far more steady state. On top of this, the scope of both codes are very different. We would not support consolidation of these two codes until DCC systems and processes mature and we view that early consolidation could in fact worsen rather than improve efficiencies.

### **Code Manager Licensing**

We would like to highlight our support the direction of travel to transfer the role of making recommendations on, or approving, code modification proposals from code panels to code managers. We support Ofgem's view that obligations are likely to be set out at a high level in the licence, but with further detail in the relevant code. Enough detail is needed within the licence to ensure Ofgem can successfully propose a strategic direction on prioritisation of code modifications, but technical detail should remain within the codes so as to streamline captured information and governance.

Generally we agree with the content that has been prioritised for policy development to be included in the code manager licence. However, there are two items we suggest are categorised as priorities that are not currently:

1. **Dispute resolution requirements** - This is an important area to clarify expectations to ensure that stakeholders and code managers are aware of the processes they must follow if any disputes arise as soon as the new governance framework is implemented.
2. **Ease of use of the code** - As suggested in our response to other questions we view that digitalisation and simplification of the code should be prioritised as this is likely to deliver greater efficiency improvements for code parties than consolidation.

### **Stakeholder Advisory Forum**

The length and frequency of meetings required for members of working groups to see through code changes deter many smaller and less resource capitalised companies from engaging. This means that a large and growing group of suppliers and companies are not represented sufficiently in these working groups. As a result it has been easier for companies to push through commercially driven code changes in the past without much challenge - often resulting in code changes which only benefit a few, rather than paving the way for change to meet net zero. Many of the proposed changes to governance arrangements and replacement of code panels with the SAF should help to address this and therefore we support these changes. However, there is rich industry expertise and

**Octopus Energy**

UK House,  
164-182 Oxford Street,  
London W1D 1NN

**w:** [octopus.energy](https://octopus.energy)

**e:** [hello@octopus.energy](mailto:hello@octopus.energy)

**p:** 0808 164 1088

knowledge on current panels which must be transferred to the new SAFs to ensure that there are direct pathways to provide technical knowledge and expertise to assist code managers in their decision making.

The key role of the SAFs should be to challenge the decisions proposed by code managers to ensure code manager decisions on code modifications and proposals truly align with the annual strategic direction set out by Ofgem. It is essential that the SAF is made up of a diverse range of stakeholders who adequately represent the range of interests and business types in operation and that no particular part of the sector is over or under represented. SAFs should be obligated to submit a formal view on material and non-material changes and this view must be taken account of by the code manager or other decision maker. Another important role for the SAF, which is more specific to SEC, must be to ensure there is opportunity for the parties paying for services to review and address service provider performance.

It is important that SAF membership is regularly reviewed to ensure it remains representative of the range of interests active in the market at any given time. Therefore Ofgem must ensure it remains agile in its approach to SAF membership - and this should be a core consideration in the design of processes for election upfront.