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By email only

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Dear Gavin,

OVO response to Ofgem's consultation on the preliminary Strategic Direction Statement and governance arrangements for industry codes

We welcome the opportunity to respond to this consultation. There are three key points that we would like to emphasise in our response:

- **Providing strategic direction:** While we note that it will be incumbent on incoming licensed code managers to develop the plans for delivering upon Ofgem's annual SDS, it is vital that Ofgem remains suitably engaged throughout the process, including during the progression of any code modifications raised to deliver the SDS. This also extends to making timely decisions on code modifications.
- **Code modification prioritisation:** It is important that code modifications raised to address existing defects in the codes are not unduly delayed or de-prioritised because they do not directly interact with the SDS. Furthermore, effective cross-code working arrangements should be established to avoid a misalignment in prioritisation activities across related modifications under different codes.
- **New proposed licence condition to cooperate with requests:** We do not consider that there is a clear justification for introducing this new licence condition. However, if implemented, it is important that any requests are not used as an alternative to other established mechanisms used to obtain industry input, including working groups and consultations. It is also essential that code managers establish effective cross-code working relationships, overseen by Ofgem, to ensure that duplicative or repetitive requests are not issued to industry participants.

Our detailed responses to the consultation questions are provided in the below appendix. We would be happy to discuss our response further, and should you have any questions please contact policy@OVOenergy.com.

Kind regards,

Jonathan Coe
Industry Change Manager, OVO

Appendix 1: OVO's responses to specific consultation questions

Q1: Is the structuring of SDS content into three time horizons (Act now, Think & plan, Listen & wait) helpful?

We believe that it is useful for SDS content to be grouped into different time horizons, so as to give code managers and parties clarity on Ofgem's expectations in terms of when change needs to be delivered. We expect that this will support code panels, code administrators (or code managers in future) and code parties with prioritising work.

Ofgem should ensure that any items grouped in the 'Act now' or 'Think and plan' categories set out sufficient detail and direction to enable industry to take action.

Q2: Do you agree with the way modifications have been categorised into these three time horizons (Act now, Think & plan, Listen & wait)? If not, please specify what changes you suggest and why.

Yes, OVO agrees that it is helpful to group policy areas into different time horizons to provide clarity to code panels, code administrators (or in future code managers) and code parties on which areas to prioritise in the forthcoming year.

Q3: On the basis that the SDS should contain a strategic assessment of government policies and developments relating to the energy sector, that will or may require the making of code modifications, do you think there is anything missing from the SDS that you would expect to require code modifications in the next 1-5 years? If so, please specify.

We have not identified any major policy areas which have not been captured by the SDS.

Q4: Did you find the SDS easy to understand and do you think that the level of detail included is sufficient to allow you to begin raising and implementing code modifications?

The SDS structure is easy to follow. However, we would suggest that Ofgem should ensure that any items grouped in the 'Act now' or 'Think and plan' categories set out sufficient detail and direction to enable industry to take action. It would be unreasonable to expect industry to raise and progress code modifications for policy areas in the 'Act now' category without sufficient direction and input from Ofgem, both via the SDS and throughout the code modification process.

Q5: If you are a code administrator or code panel what action do you intend to take, if any, to implement the SDS following publication?

N/A

Q6: Do you have any suggestions about the best way to implement the SDS in the context of budget setting, delivery planning and the introduction of a harmonised prioritisation

process? Please note we will be doing stakeholder engagement in early 2025 to discuss this further.

We believe that effective cross-code working will be integral to the successful delivery of the SDS. Existing cross-code working arrangements have often failed to effectively manage changes spanning multiple codes, and therefore we would encourage Ofgem to consider how existing groups, such as the Code Administrators Code of Practice (CACoP) forum, and the Cross-Code Steering Group (CCSG) can be utilised to support effective budgeting and planning for SDS delivery.

Effective and continuous engagement with code parties will also be vital, and code administrators/managers should be obligated to appropriately engage with industry stakeholders throughout their planning and prioritisation activities.

Q7: Do you have any other feedback?

We believe that a key contributor to the success of the SDS will be that Ofgem is suitably engaged in the development of any code modifications that are raised to deliver upon the SDS. This extends to Ofgem's role in making timely decisions on code modifications.

We note that there are instances currently where Ofgem is not suitably engaged early in the development of code modifications, for example participating in industry working groups. Ofgem providing early input and direction would enable code panels and code parties to effectively utilise resource, deprioritising or halting modifications earlier in the process where Ofgem has provided a steer that such modifications do not stand a reasonable prospect of success.

Furthermore, earlier engagement in the code modification process would support Ofgem in making timely decisions on code modifications. There are a number of previous instances where Ofgem has taken several months or even years to make decisions on code modifications. This delays the realisation of the benefits that the modification was intended to achieve. Ofgem must commit to making timely decisions to enable change to be implemented quickly. Early and effective engagement would allow Ofgem to seek any clarification on a modification as it develops, and/or provide steers or challenge where it is uncomfortable with aspects of a modification.

Q8: Do you agree with our proposed prioritisation process, including the requirements that:

(a) a proposer of a modification proposal should be required to include an assessment of their proposal against the prioritisation criteria

OVO agrees that it is appropriate for the proposer in the first instance to set out their view on the priority of the modification that they are raising. This should support code panels (and in future code managers) in their assessment. It is important that proposers are kept

fully up to date as their modifications develop, including in relation to any re-prioritisation decisions taken by code panels.

(b) that the code panel should then be responsible for determining the prioritisation category of the modification proposal

OVO agrees that, as the decision making body under the code, the Panel is best placed to determine the appropriate priority level for each code modification. However, it is important that code parties are appropriately consulted on this to ensure that the interests of parties can be taken into account.

We believe that further consideration is required to the treatment of non-SDS related modifications in the new prioritisation framework. For example, modifications raised which do not have an interaction with the SDS, but which aim to address identified defects in codes which are having a material impact on parties or consumers. It is important that the progression and implementation of such changes is not continually de-prioritised when new SDS-related changes are raised.

Consideration also needs to be given to cross code impacts, particularly in the context of the current cross-code working arrangements managed through the Cross-Code Steering Group. For example, where the panel for the 'lead code' modification determines that a modification should be treated as high priority, we would welcome clarity on what this means for any consequential changes in other codes, and whether they would also automatically be treated as high priority so as to align with the 'lead code' modification timetable. It is important that these new prioritisation arrangements do not have a detrimental impact on the progression of cross-code packages of change, for example where changes in some codes are progressed as high priority, while changes in other codes are not.

(c) that code panels should reassess the prioritisation category of modification proposals on a quarterly basis

OVO agrees that this is appropriate, given the fast paced and evolving nature of the sector. We agree that the prioritisation status of code modifications should be reviewed on a regular basis. However we would welcome further clarity on the impacts of a change in prioritisation level (i.e. from high priority to standard priority), and how code panels and code administrators would manage any associated slowing down, or speeding up, of activities.

Similar to our response to Q8(b), we would like to better understand how cross-code change will be managed in the event of a code panel re-prioritising a code modification. For example, whether this would necessitate re-prioritisation of any consequential changes in other codes. If so, it is important that good cross-code working arrangements are in place between code panels and code administrators (and in future code managers) to support this.

(d) that all codes contain a requirement for a code modification register, that also includes whether a modification is urgent and the prioritisation category. If not, please specify what changes you suggest and why.

Yes, we agree that each code administrator or code manager should be required to maintain a fully accessible and open code modification register. Requiring parties to log in to view the details of code modifications, or respond to consultations, can stifle engagement and collaboration.

Q9: Do you agree with our proposed prioritisation criteria and prioritisation categories? If not, please specify what changes you suggest and why.

Yes, OVO agrees with the proposed prioritisation criteria and prioritisation categories.

Q10: Do you agree with our proposed legal drafting of code modification prioritisation procedure included in Annex A? If not, please specify what changes you suggest and why.

Yes, the proposed code drafting appears to deliver upon the intent of the prioritisation proposals set out in the consultation. We note that the code drafting will require code panels to provide reasons for their determinations in relation to prioritisation, and we agree that this is essential in order that the process be fully transparent. The requirement to provide reasons for prioritisation decisions presumably also extends to any re-prioritisation activity undertaken by panels on a quarterly basis, as required by the code drafting.

Q11: Do you agree with our proposed definitions to form future guidance on Code Modification Prioritisation included in Annex B? If not, please specify what changes you suggest and why.

Yes, OVO agrees with the proposed definitions.

Q12: Do you have views on whether this proposed prioritisation process should also apply to all live modifications that exist at the date that the proposed code changes take effect, as well as newly proposed modifications from this date onwards?

We consider that it may be beneficial to retrospectively assess all live code modifications against the new prioritisation criteria, to ensure that industry time and resource is dedicated to the highest priority modifications. However, a pragmatic approach should be applied to ensure that modifications that are already well advanced through the change process are not unduly paused or delayed. It is also important that live modifications which have been raised to address existing defects in the code(s) are not deprioritised in favour of new SDS-related modifications.

We would also re-emphasise the importance of transparency, to ensure that all modification proposers are informed and aware of the implications for their modifications.

Q13: Do you agree with our proposed drafting of a new principles-based standard condition, for cooperation with code modifications related to SDS, for all gas and electricity licences, included in Annex C?

As a matter of principle, OVO's view is that licence conditions should only be used where there are no other reasonable means to drive behaviours. To date, we do not agree that there is a clear justification for introducing this new licence condition.

However, if Ofgem decides to introduce this new licence condition, we are supportive of a principles-based approach being taken. On the proposed drafting for this new licence condition, we would welcome further clarification on how compliance would be assessed, particularly in relation to the 'reasonable steps to cooperate' test. We are supportive of the defined proposed criteria set out in the consultation (see our response to Q14), and consider that this provides appropriate clarity around when and how code managers will issue any requests.

Q14: Do you agree with the proposed criteria the code manager should consider prior to issuing a request for cooperation?

The proposed criteria appear to be reasonable, and we agree with Ofgem that it is important that this request mechanism is not used as an alternative to other existing mechanisms for obtaining industry engagement on code modifications, including working groups and consultations. Code managers should have to demonstrate, via the 'Nature of cooperation' criterion, that they have exhausted all other mechanisms prior to issuing a request for cooperation.

Furthermore, while we agree that the proposed criteria, particularly those relating to volume and cross code interactions, should go some way to ensuring that code managers are not issuing duplicative or unnecessary requests, it will be important that effective cross-code working arrangements are established and maintained between code managers. This will be important to avoid instances where different code managers issue separate requests for information in relation to the same package of cross-code change. Consideration should be given to the role that the CCSG, CACoP and other cross-code fora can play in facilitating this cross-code working.

Finally, we would stress the importance of the timing of any requests, and allowing parties sufficient time to respond.