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Dear Mark,

## **Review of Industry Code Governance**

This is a welcome review of industry code governance arrangements. Please find below our initial thoughts. This letter may be treated as non-confidential.

### Critical analysis of modification proposals

We agree there is a need to review the modification process to ensure that it is fit for purpose. From our own experience of P212, we do not believe that the process delivered a full and fair assessment of this proposal. It was always going to be a difficult process because the subject matter is so complex and any change potentially controversial. It also became clear towards the latter part of the process, that the specified time-frame was limiting and all the analysis identified could not be completed. However, the modification process should have been sufficiently robust, and I think this illustrates that a review is needed. There may well be other examples which have raised concerns and we do not see the review restricted only to BSC changes.

As well as quality and depth of analysis on an individual change basis, we also believe that some consistency where appropriate would be beneficial in terms promoting accessibility and inclusion. The process in terms of change status and the point at which a party has the opportunity for providing input varies across the governance arrangements. This can create potential for confusion and missed deadlines, especially for smaller parties with limited resources and a significant volume of changes to prioritise.

We agree that the right of appeal to the Competition Commission on eligible Authority code decisions is an important change. Generally the condition is that the authority has taken a different view from the reported majority view of the relevant governance panels. This would suggest a common base-line across the arrangements. This may have implications not just with regard to

ensuring the Authority are properly informed by the industry, but also for such issues as panel composition, governance of those panels and how decisions are reached.

There is an implicit democratic process adopted and used within the industry. We are concerned that views that are in the consumers' best interest to be properly represented may not be given appropriate emphasis because they are a minority view.

#### The relevance of code objectives – are they still fit for purpose

There have been a number of articles in the press of late concerning suppliers providing a low level of service. These range from published consumer surveys by energywatch to individuals expressing their dissatisfaction that their supplier has failed to solve their problems with billing, switching etc. Although standards vary between suppliers, it seems to be a much more general complaint about the service delivered by suppliers across the board. Whilst we accept that suppliers have a responsibility, it would be worth considering at a much broader level as to whether industry codes are promoting consumer interests and enabling suppliers to deliver an appropriate level of service to their customers.

We agree that sustainability is a very relevant issue. There does appear to be gap in this area under the current code objectives and look forward to hearing further on how this might be addressed.

#### Charging Methodologies

We agree that this is an area of concern and some parties may feel disenfranchised from the process. It also gives undue power on the network operator to influence their charging methodology to suit their business model rather than benefit the customer or facilitate competition in supply and generation.

Having the governance of the charging methodologies managed by the network operators does not fit with the objective of a process administered in an independent and objective fashion.

#### Other issues

We do not generally believe that there is scope for more self-regulation within the codes. There is just too much of a range of parties in terms of size and therefore influence. The letter also highlights issues such as those not present at working groups (and this is likely to be smaller parties) potentially being disenfranchised from the modification process and also smaller players finding the arrangements too complex and inaccessible. More self-regulation does not appear to sit well with the objective of an inclusive and accessible governance regime.

The multiplicity of code administrators means that there are differences in style, quality and document structure. We think some consideration should be given to promote consistency where appropriate. We would also urge you to consider whether there is scope to redefine the boundaries of codes or combine them. For example, all issues with volume allocation and settlement could be under one code (MRA & BSC), all network issues could be under another code (CUSC part and DCUSA) and all system operations issues under a new code (BSC and CUSC).

#### Governance Review

We are pleased to note the broad objectives given in this section.

I trust that these comments are helpful. Should you wish to discuss further, then please do hesitate to contact me.

Yours sincerely,

Keith Munday  
Commercial Director