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Dear Mr Feather

Review of industry code governance: Scottish Renewables' response

Many thanks for the opportunity to respond to Ofgem's Open Letter on a possible review of industry code governance. Scottish Renewables welcomes the approach taken by Ofgem to investigate the way the various codes operate, how they interact and how they could support new and existing renewable electricity generation in the UK.

Scottish Renewables is the trade association for the renewable energy industry in Scotland representing more than 220 businesses and organisations. The majority of our members have an interest in generating and supplying renewable electricity and therefore the way that networks are regulated.

We have drafted this response to the Open Letter following consultation with our members and with the support of our Grid & Regulation Workgroup.

Last year Scottish Renewables published an important contribution to the debate on the future of electricity networks in the UK. *Making Connections*¹ considered the issues which have been raised by the Open Letter and concluded that network operators should be incentivised to innovate and maximise the productivity of transmission and distribution systems but that the way industry codes are regulated militates against innovation and benefits incumbent interests.

Summary of Open Letter

Ahead of a more formal review of code governance, the Open Letter is a call for evidence to assist Ofgem to scope the approach and points of interest for the review.

The Open Letter sets up the discussion about code governance, and most pertinently to the renewable electricity industry, by agreeing that "existing code arrangements are too complex and inaccessible" to smaller players and that the time is right to consider whether "there are changes that can be made to simplify these arrangements and reduce unnecessary regulatory burdens".

¹ <http://www.scottishrenewables.com/MultimediaGallery/4b125889-8412-4945-9c7f-f691de33cce6.pdf>



The Open Letter first discusses Ofgem's concerns about the practicalities of changing Codes and that occasionally a less than robust approach by decision makers can lead to sub-optimal decisions. It notes the costs to all stakeholders as a consequence and in particular states:

"In many cases both costs and benefits of proposals are not adequately assessed. Similarly, assessments of proposals against the objectives of the code in question are often limited and lacking in analysis that would enable us to conclude whether a change is merited."

The Open Letter then goes on to ask about the relevance of applicable objectives for the various codes and crucially, with regard renewables, "whether the existing objectives should be supplemented in the light of the changing statutory framework" and in particular pay greater attention to sustainable development.

The Open Letter adds that participants in code governance may take a differing view of what is in the scope of the applicable objectives and therefore decisions may be taken that do not consider all of the views that may be expressed. The Open Letter specifically asks if the scope and clarity of applicable objectives are adequate, whether new objectives need to be introduced and whether the decision making process should better reflect the Authority's broader view, thus acknowledging that Ofgem can, and maybe should, do more in this regard.

With regards to transmission and distribution charging methodologies it asks whether stakeholders other than the network operators can propose changes to the methodologies and also asks for views on whether the responsibility for charging governance be shifted to a code-like system and independently governed.

The Open Letter also asks about the efficacy of a fragmented code system of governance and seeks views on this.

Scottish Renewables view of code governance and Ofgem's role

Scottish Renewables, as a representative of the industry, observes and participates in discussions regarding the full range of codes. In doing so, it is acutely aware of the complexity and burden involved for code administrators, Ofgem and the industry in discharging their duties.

The sheer weight and number of consultations and impact assessments associated with modifications and the effort required to promote change is in itself a disincentive to participate for many players and is likely to lead to a range of comments and responses on any one modification that does not provide the full picture to code administrators. Clearly, there is little or no credible alternative to full, participatory stakeholder engagement but it must be a frustration to Ofgem, as it is to us, that the industry has to prioritise its engagement rather than cover *all* that is relevant.

However, when the renewable electricity industry does attempt to promote positive change to support both the small but growing UK renewable electricity industry and the Government's objective to tackle climate change, it is frustrated by incumbents' reluctance to concede the benefits that come with being an incumbent. In addition, with distinct codes operating in a quasi-independent manner this means that when there is an

assessment of a modification proposal a cost in one code cannot be balanced against a benefit in another.

Effectively the codes operate in a number of silos and we believe that despite Ofgem having the authority to take a broader view to take into account wider energy policy goals, such as sustainability, it does not generally do so (the Open Letter concedes that this may be the case). The renewable electricity industry sees few signs that this 'broader view' is hard wired into the way it discharges its responsibility to manage network governance.

This is a disincentive to the renewable electricity industry to promote change and innovation of the codes. However, because incremental change is the only way to promote such change it has little choice but to participate.

Further, the inability to suggest changes to charging methodologies is an anomaly that needs to be resolved but in a way that is consistent with the conclusions of this proposed review and the Transmission Access Review (TAR).

The whole experience of engaging with code governance has led the renewable electricity industry in Scotland to conclude that fundamental change is required if the full benefits of renewable electricity are to be delivered and we will thus engage fully with the proposed code governance review and TAR as we see both being very closely linked and crucial to the successful development of the industry.

Scope of review

The objective of the Open Letter is to gather views from stakeholders on the scope of any future review of code governance.

Scottish Renewables believes that the Open Letter provides a balanced commentary on some of the frustrations that we, and no doubt others, have expressed to Ofgem.

Therefore we believe that any code governance review should cover, but not exclusively, the following points:

- The introduction of sustainability benchmarks to the applicable objectives of the codes so that sustainability is on an equal footing with existing applicable objectives;
- That Ofgem takes a broader view of code modifications so that costs and benefits across the whole range of codes can be assessed and so that code administrators themselves take a broader view and effect cultural change to 'silo-thinking';
- Consider the costs and benefits of a stronger management role in code governance for Ofgem so that individual code administration is consistent with principles laid out by Ofgem;
- Consider the costs and benefits of a stronger management role in code governance for Ofgem so that cross-cutting issues (such as management of grid access) can be addressed and resolved centrally and then implemented in each industry code without initiating separate, un-coordinated and possibly conflicting governance processes;
- Put forward potential models for that stronger code management;
- This management role would include a rapid 'quality gate check' on all consultation and impact assessment documents before publication and send back for redraft if necessary;

- Explore with all stakeholders proposals for an independent administrator to govern charging methodologies with applicable objectives consistent with wider energy policy objectives;
- Explore with all stakeholders their right to propose modifications to charging methodologies;
- Explore with all stakeholders changes to code governance for distribution so that Distribution Network Operators are given agency of management of distribution system and ease issues around transmission access for distributed generation;
- Explore with all stakeholders ways to reduce the regulatory burden associated with code governance so that all stakeholders can play a full and effective part in the discussion and debate around significant issues;
- A call for evidence on the speed with which modifications should be made and introduced and ask stakeholders what constitutes full, participatory, and effective stakeholder engagement;
- Explore options for a regular code governance review.

Finally, Scottish Renewables would like to underline the urgency with which this review should be undertaken. Many potential renewable electricity generators in Scotland are having to deal with a number of unnecessary regulatory hurdles and costs and we believe that the sooner there is fundamental change to the way networks are managed so that issues surrounding climate change and secure and affordable supplies of electricity are resolved then the quicker the renewable electricity industry will deliver ever greater cuts to climate changing gases.

Scottish Renewables hopes that you find this response helpful. Needless to say, if any of the points made above prompts a need for clarification please get in touch.

Again many thanks for the opportunity to comment on this important issue.

Yours sincerely



Jason Ormiston
Chief Executive