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17 January 2008

Dear Mark,

REVIEW OF INDUSTRY CODE GOVERNANCE

This response to the 28th November open letter on a review of Code Governance has been discussed and agreed by the UNC Modification Panel Members (the Panel) and is being submitted as a Panel response. The views expressed are therefore provided from the perspective of Panel Members and should not be taken as representing the views of the employers of each or any Panel Member.

The Panel welcomes a review of Code Governance and specifically the role of it and other panels. However, the Panel firmly believes that the UNC modification process has delivered much change in a timely and cost efficient manner – Modification Proposals have been raised and the UNC modification process has been operated efficiently to ensure Proposals are progressed appropriately. As such, it is generally accepted that the UNC modification process works, and the Panel would urge that care is taken that the outcome of any Review does not make the situation worse rather than better. The Panel does not believe, for example, that filibustering has been experienced in the case of UNC Modification Proposals, and certainly not as a result of deliberate Panel actions or decisions. Indeed, in cases where Proposers have maintained that they do not intend to amend their Proposals despite others suggesting that extra time developing them might be well spent, the Panel has not sought to delay them but rather has allowed them to progress through the Governance process in line with the Proposer's expectations and views.

With regard to the issue raised in the open letter in respect of better analysis of Proposals against the relevant objectives, the Panel encourages this through setting appropriate terms of reference. However, it should be recognised that the extent of any impacts will vary greatly between Proposals and the governance process should remain flexible in order to be proportionate to each case. For example, Proposals which could be categorised as housekeeping require less supporting analysis than those which envisage fundamental reform. In addition, there will always be instances where certain information is commercially confidential and it would be difficult to take market participants' costs and benefits into account in a public process. The Panel consider that Ofgem is best placed to request, aggregate and assess such data, and also to take into account wider considerations which may go beyond the confines of the UNC.

The Panel also considers that there would be benefits through Ofgem involvement as early as possible in the governance process. This would help, for example, to clarify during the Modification development phase questions and issues which Ofgem would wish to see addressed in order to be in a position to take a considered implementation decision. The Panel would regard this early involvement as preferable to the need for Ofgem to issue open letters in order to gather additional information at the end of the governance process and would urge Ofgem to utilise fully the opportunities afforded to it under the code governance processes.

The Panel also notes the effect that changes to GT Licence obligations have had on UNC development – most of the recent special Transmission Workstream meetings have been held because of potential or actual Licence changes. The Panel believes it would be helpful to understand the reasoning used at Authority meetings when such changes are proposed - it is the Panel's view that greater transparency could assist UNC parties in raising appropriate and timely Modification Proposals to complement Licence changes.

Finally, the Panel considers that increased industry self governance could be a useful model for some areas, for example through allowing modifications to industry documents or sections of the UNC to be made subject only to approval by the Panel or Uniform Network Code Committee. This self governance approach already applies to a number of UNC ancillary documents, and the Panel believes consideration should be given to extending this to a number of statements and methodologies presently governed through GT Licences. The Panel also sees some merit in benchmarking code Panels and administrators against efficiency and other criteria, including looking to establish views on best practice among the various codes.

The Panel trust that this response is helpful and looks forward to further involvement in the Review. Any questions regarding this response should be addressed in the first instance to the Panel Chair at enquiries@gasgovernance.com.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Davis', with a stylized flourish at the end.

Tim Davis

UNC Modification Panel Chair