



**Legal, Regulation and
Compliance**

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Monday, 12 January 2009

Mark Feather
Director, Industry Codes and Licensing
Ofgem
9 Millbank
London SW1P 9GE

By E-mail: mark.feather@ofgem.gov.uk

Dear Mark,

Re: Open letter, the “timing out” of Authority decisions on modification proposals

Thank you for the opportunity to comment on the open letter detailed above. This non-confidential response is on behalf of the Centrica group of companies excluding Centrica Storage Ltd and may be placed on the Ofgem website and in the Ofgem library.

Centrica notes Ofgem’s proposal for the Authority to amend implementation/”decide by” timescales under the industry codes in one of two ways:

- a) the Authority would be able to amend timescales directly
- b) the Authority would be able to compel code panels to amend timescales for a minimum period, as specified by the Authority

Centrica has serious concerns with these proposals.

- We believe that they would extend regulatory risk and adversely impact industry’s commercial rights (in respect of modification proposals) to an unacceptable degree.
- Where Authority decisions are delayed, there are high risks that analysis will become outdated.
- Not all panels currently set implementation or decide by dates.

We believe that there is in principle sufficient flexibility in the existing procedures such that, with good communication between the industry and Ofgem, issues should be capable of being managed effectively. While Ofgem suggests timing out could delay benefits (or indeed costs),

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again, with good communication, the situation could be managed.

With these points in mind, Centrica does not support either of the approaches as currently described. We also believe that, as per our response to the open letter on environmental impact assessment, any such changes should be carried out as a coherent package of measures after the completion of the Governance review and not piecemeal.

In the Code Administrators working group, discussions have included the fact that the approach under the UNC – whereby the originator of a proposal retains control over the full content of that proposal, including the proposed implementation date – is preferable to the approach under the BSC, for example, whereby the originator loses control of the development of the proposal once it has been formally raised. The approaches proposed by Ofgem run directly counter to this preferred regime.

However, if Ofgem continues to propose that change is required, Centrica believes that safeguards are essential and that there are more appropriate ways to proceed. We would offer the following to set out the kind of approach we believe would be necessary:

- 1) If an extension is requested by Ofgem, the reasons must be fully explained in a published document prior to the extension taking effect.
- 2) Extensions requested must be for a defined period, the length of which must be justified/reasonable in the circumstances; *or*
Any extension can only be for a [one] month period at a time. Further extensions should be requested and justified each time, and the total number of requests should be limited to [three or six].
- 3) Extensions can only be granted by mutual agreement between the parties. In this case we suggest the parties would be the Authority and the Panel on behalf of the Industry: *or*
Any extension can only be made with Panel consent, such consent not to be unreasonably withheld.
- 4) Where an extension is granted, the Panel if it considers it necessary, must be able to stipulate that any relevant analysis be updated and a reasonable timetable for this work.

If the above suggestions are adopted, we believe that this would help the industry to manage the associated regulatory risk and to have greater confidence that timescales would not become unreasonably extended.

We trust these comments have been helpful, and I would be happy to discuss any points in more detail.

Kind regards,

Yours sincerely,

By e-mail

Alison Russell
Senior Regulation Manager, Upstream Energy

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