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Dear Mark

Review of Industry Code Governance – Environment and Code Objectives

In our response to Ofgem's November 2007 industry codes consultation dated 22 January 2007 we set out our initial views on the relevance of the current code objectives commenting, *"In principle we consider it would be appropriate to consider, where relevant, aligning each code's applicable objectives (or equivalent) with the Authority's wider statutory duties."* At the time we had in mind the potential risk for code Panel's to make recommendations on a different basis to that of the Authority and were concerned that this may result in nugatory modification work or inappropriate and unnecessary appeals of modification decisions to the Competition Commission.

After further consideration and in particular reflecting on the work of the cross-code Standing Group established by the CUSC Panel to consider the Guidance, we think the key considerations are whether the current code objectives could reasonably permit assessment of environmental issues and whether there is a fundamental incompatibility between the respective criteria for Panel and Authority decision making. The considered view of the Standing Group was that it was perfectly feasible for the CUSC amendment process to undertake an assessment of the impact of the proposal on GHG emissions under the "efficient and economic network operation" objective and that wider environmental assessments may be possible under the general code objective referring to "efficient discharge of the relevant licensee's activities".

In practice it is also difficult to envisage scenarios where there might be a real conflict between Panel and Authority decision making criteria. Thus the current legal framework seems adequate and new licence provisions do not seem necessary at this stage.

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Furthermore we agree with the Standing Group that whilst any environmental assessment should not be limited the impact on a particular licensee or industry, it is beyond the scope of codes to consider broader environmental and public policy issues. Please refer to the report Standing Group report for further details, <http://www.nationalgrid.com/NR/ronlyres/5B0AC24F-4944-47A2-9817-B7EA36542F62/30556/FinalEnvironmentalGroupReport11approvedbythePanel.pdf>.

We agree that the Ofgem Guidance is a coherent and well thought through document that is helpful to the industry, but we do not accept that it can be considered as binding on the industry or code panels. Indeed, as the processes for assessment of environmental matters and in particular the determination of the cost of carbon are likely to evolve, it is best for the relevant code panels to continue to have the discretion to determine the scope of nature of any environmental assessment.

Like other changes that are being considered as part of the industry code governance review we believe many improvements to the modification process can be achieved through a constructive dialogue between Ofgem, and relevant code panels. We fully expect code panels to have due regard to any guidance given by Ofgem so we do not see the need to compel them to carry out an assessment of environmental issues through changes to relevant licences. We therefore urge Ofgem to revise its provisional views of this matter.

Yours sincerely

Peter Bolitho
Trading Arrangements Manager