

Mark Feather  
Industry Codes and Licensing  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Renewable Energy House  
1 Aztec Row, Berners Road  
London, N1 0PW, UK

T +44 (0)20 7689 1960  
F +44 (0)20 7689 1969  
info@bwea.com  
www.bwea.com

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Dear Mark,

### ***Code Governance Review consultations***

Many thanks for considering our response to the Code Governance Review consultations on:

- Major policy reviews and self governance
- The role of code administrators and small participant/consumer initiatives

We have consolidated our response for the two consultations into one letter and some general subject headings.

BWEA was established in 1978 and is the representative body for companies active in the UK wind energy market. Its membership has grown rapidly over recent years and is now approaching 500 companies, representing the vast majority of connected capacity. The Association has all sizes of companies in its ranks, which gives us a broad perspective.

The UK has a rich variety of renewable energy resources and the largest wind resource in Europe. Wind energy currently supplies approximately 1.5 million homes in the UK. It is important to support and encourage the growth of the sector and associated benefits.

BWEA supports Ofgem's concerns over the ability of the code governance arrangements to deliver the change required given the challenges ahead, their complexity and the extent to which the interests of small players are taken into account.

### **Code administration**

BWEA supports impartiality of code administration. Notwithstanding the existing duty on code administrators and panel members to be impartial, we believe that the code modification processes and analysis would be more objective with clearer separation from commercial interests. We welcome the debate on alternative options such as an "active secretarial" approach and independent chairing.

We would also welcome measures to improve the accountability of the process, but it is absolutely essential that this is meaningful and helpful rather than a source of additional bureaucracy.

### **Small players**

BWEA's experience is that the code Working Groups are inclusive, and the administrators approachable and helpful. However, this is often only apparent once a party is engaged in the process. To initiate engagement, there is definitely room for improvement in the public-facing aspects of the codes such as communication via websites, seminars and publications.

Furthermore, there does not appear to be any explicit bias to any one particular community of users – small, large or otherwise.

The single most significant barrier to participation for smaller players is the resource required to participate in a lengthy and specialist process. We discuss this further in our comments on complexity.

Secondary to this is the perception that participation will have little bearing on the outcome. It is important not to confuse participation in the process with a party's ability to influence the outcome. The two should really be considered separately, especially where there are some intractable industry positions which move into the political and legal arenas. Furthermore, Ofgem, as the decision maker, can be perceived as having rather fixed views. Whether this is true on all occasions is debatable, but we believe there is room for Ofgem to engage participants through being more genuinely open minded and persuadable.

In view of the difficulties experienced by smaller participants in engaging in the code modification process, we support the concept of a designated smaller player seat on code panels. In addition, we believe it appropriate that a duty should be placed on code administrators to consider the interests of smaller participants.

BWEA would also note that the majority of industry meetings are in London or Warwick, which could be a barrier to some small players.

### **Quality of Analysis**

We believe that concerns on the variable quality of analysis are justified. However, we do not think that Ofgem speaks from a position of perfection in this respect, and that its own quality of analysis is similarly variable.

Our observations are:

- Whereas in many instances, analysis is adequate, there are examples where analysis has been quite superficial. No doubt this is in part a result of the volume of recent code amendment work and the pressures to progress complicated issues within tight timescales. However, the need for appropriate and adequate analysis is paramount and we would support an increased use of independent and external resources in order to improve the quality of analysis.

- It is important here to separate out the underlying quality of analysis from the packaging and presentation. Well presented analysis can equally be poor or impenetrable to the average reader.
- There should be clear guidelines which require analysis to encompass a credible range of assumptions. It should always be clear how the inputs have influenced the outputs. This is amply demonstrated by the wide range of “answers” on the impact of Connect and Manage depending on the underlying assumptions.
- Ofgem should give further consideration to whether its economics could be “greener” in the light of its enhanced sustainable development duty.

## **Complexity**

Complexity of the process and of the issues considered is very clearly a problem, particularly for new entrants and small players. We recognise that there is a need to honour the real-life complexity of the issues. However, small users are not by definition incapable of grappling with complexity. More likely they are turned off and intimidated by the code-centric language of the process. BWEA believes that the process would be improved by:

- More educational materials and fora which bring users up to speed outside of the actual CUSC/BSC Working Groups.
- A plain English campaign for many of the materials coming out of the BSC and the CUSC.
- Dry runs of major mods to enable participants to get a feel for how they will work in practice, preferably as part of the development phase rather than the implementation phase. Clearly this is impractical for every modification, but it would be helpful for the major ones.

We agree that “best practice” and harmonisation of processes is a desirable objective *where it makes sense*. We would caution against uniformity for its own sake. BWEA would also note that a major improvement in the Transmission Access Review has been dual consideration of access and charging issues and would very much support a formalisation of this practice.

## **Call-in and send back of proposals**

The option for Ofgem to be able to call in modifications that it considered were proceeding in an unsatisfactory fashion, or send them back if they were considered deficient, would seem to be useful tools in ensuring a satisfactory outcome. However, the need to call in or send back proposals could presumably be avoided by Ofgem being able to offer timely guidance on direction during the consultative process, together with clear advice as to the nature and quality of the analysis it required.

## **Ofgem’s Major Policy Reviews**

The concept of a coordinated approach to Major Policy Reviews is a welcome step forward. However, BWEA shares some of the industry-wide reservations over Ofgem acting as the “initiator, prosecutor, judge, jury and executioner”.

Ofgem does in effect have a very strong influence over some proposals that are brought forward, and so explicit recognition of its involvement would certainly be welcome.

We also recognise Ofgem's understandable caution in expressing strong views during the development of proposals, lest that fetter its discretion. BWEA considers that this card is somewhat over-played, but nonetheless it is a real issue and surely this concern is equally valid where Ofgem has the power to openly initiate major modifications.

Generally we feel this area needs further and very careful consideration.

We trust that our response is helpful and would be happy to discuss any points further if required.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a series of loops and a long horizontal stroke extending to the right.

Dr Gordon Edge, Director of Economics & Markets, BWEA