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25 February 2009

Dear Mark,

Code Governance Review – Role of code administrators and small participants

Thank you for the opportunity to comment on the above consultation. As I am sure you are aware, Good Energy is a small electricity and gas supplier, specialising in offering a sustainable alternative to energy customers.

For your ease I have answered the specific questions posed by your consultation, expanding our response where necessary.

Chapter 2

Q1. Are the Authority's concerns regarding the quality of analysis undertaken through the code modification processes justified?

Yes. Not only should the Authority be concerned with the quality of the analysis, but it should also query the objectiveness of such data as it is likely that any modification group or proposer will present data to make their case, rather than an objective presentation of all the evidence.

Q2. Are some code administrators more accountable than others?

Yes. In particular, the role of NGC as both system operator and code administrator can create a perception that modifications that would be opposed by NGC will have a harder path, than

those favoured. The code administrator would have trouble being a critical friend, if NGC opposed any proposals from a smaller participant.

Q3. We consider that code complexity is a problem, particularly for small participants, new entrants and consumer representatives. Do you agree? How can the complexity be reduced?

Code complexity is not a problem, it is the complexity of the arrangements around them, as well as the number of codes and different processes for engaging with the codes. Larger participants resolve this by spreading the load across several individuals, who are all routinely engaged in their area of expertise. Smaller participants do not have the luxury of such resources, and thus deal with the relevant parts of the codes as needs arise.

The need for complex codes, is dictated by a complex market mechanism. Assuming that there is little appetite to re-write industry systems, then uniformity of approach and an independent, supportive and knowledgeable administrator would greatly assist. It would also be useful if major changes were handled sensibly rather than the current dogfight approach of multiple, conflicting modifications.

Q4. Do small participants, new entrants and consumer representatives find it difficult to engage with the code modification process?

Yes. Good Energy engages with the codes only when proposals critically affect the business. As a business with a mission to fight climate change by changing the energy industry from within, we would like to be more involved in proposing changes, but the sheer resource required just to keep on top of other proposals makes this impossible. It is not the complexity of the codes that is the problem per se, it is the complexity of the arrangements that support the codes.

As a useful guide, we believe OFGEM should seek from all suppliers (electricity and gas separately) a ball park figure on the number of man days per year spent on handling code matters. Given there are no economies of scale, it would give an interesting insight into the work required and committed.

Chapter 3

Q1. Do you agree that the quality of analysis in the code modification reports could be improved? Should the role of the code administrator be changed to help enhance the quality of the code modification reports?

Yes. The current quality of modification reports is variable depending on the skill of the proposer or modification group concerned. Consistency of approach would be an enhancement, especially when competing modifications are submitted. The administrator is best placed to do this and to acquire the skills required to ensure both quality and impartiality are maintained.

Q2. Which of the options for changing the role of the code administrator in the modification process (critical friend or active secretariat) is the most appropriate? Should different options be chosen for different codes?

On balance we would support an active secretariat as this is more likely to lead to conformity of approach. However, more important is the administrator to be and be seen to be independent with no opinion of its own on any proposal. As a critical friend or active administrator, the administrator should be there to support the proposer and ensure that the modification proposal is robust. It is not there to champion the status quo.

In order to achieve conformity of process, and hopefully a reduction in the number of administrators, preferably down to one. We believe that all codes administrators should work the same way.

Q3. Should the role of the administrators of the BSC, UNC, CUSC, Grid Code, SPAA and MRA in respect of central systems be harmonised i.e. should all code administrators either be responsible for the related systems or should responsibility be removed from them all?

The independence of the administrators from any vested interest is the key for strengthening their ability to support the process as a critical friend or active administrator. We would therefore support separation from the systems with sufficient safe guards to ensure they could reliably assess the impact of changes.

Chapter 4

Q1. Should code administrators be independent of network owners? If so, is it sufficient to have management unbundling or should the code administrator be an independent company?

Yes. In order to be a critical friend or active secretariat, code administrators should have no vested opinion, other than to ensure that change proposals are robust and shown to deliver

the benefits proscribed. Code administrators should ideally be separate companies, however management unbundling could work if the code administration function is tendered out to an independent organisation.

Q2. Should all major commercial codes have the same corporate governance structures? What is the most appropriate governance structure?

Conformity of structure would greatly assist smaller participants as this would then allow processes below that to be similar and thus easier to interact with. The most appropriate structure would be for each code to have a panel of independent industry experts, (similar to Exelon, rather than a representative panel like the MRA), and the code secretariat function tendered out, with clear objectives and principles.

Q3. Are code administrators and the management teams for CUSC, UNC, and BSC sufficiently accountable in terms of their costs and performance? Do they have clearly defined objectives and measurable performance targets?

We are not aware of any objectives or performance targets, so feel unable to comment.

Q4. Code administrators are currently funded by cost pass through, service contracts or price controls. Which of these funding arrangements is the most transparent and accountable?

The most transparent and accountable is a service contract. However, it should be recognised that certain elements of a service contract may result in pass through cost due to their unpredictable nature. Code administrators would have an incentive to keep pass through costs minimal in order to get their contract renewed.

Q5. Is there an argument for considering the service contract approach to funding for more codes if a degree of self governance for a code is introduced?

Self governance in itself should not impact the type of funding arrangements, although an impact assessment on any funding arrangement would need to be considered when self-governance structure is agreed.

Q6. Should the funding of the code administrators for the CUSC and UNC be removed from the relevant network owner price controls?

If the CUSC and UNC became independent of the network owner and an independent panel was responsible for securing a service contract, then yes, it would be inappropriate for the network owner to fund the process. If the network owner maintains control, then it should remain part of their price control.

Chapter 5

Q1 Should Ofgem have powers to “call in” and “send back” modification proposals? What are your views on the “call in” and “send back” options?

The ability to send back modification proposals which Ofgem feels are under developed would be useful, although a caveat on this should be that Ofgem discuss the matter with the proposer first. Some modifications arrive at Ofgem’s door under developed because the modification group have decided against the proposal and see no reason to build the case effectively. In these cases, if the proposer is in agreement that the proposal should not proceed (but the system prevents withdrawal), then Ofgem should not send back.

Ofgem should have the power to call in proposals, but only where there are “bigger picture” issues, which means that Ofgem wishes to widen or narrow the scope of the modification groups terms of reference. Otherwise it should content itself with seeking explanations from the appropriate panel.

Q2 Should all code panels have to publish the reasoning behind their recommendations?

Only when they overturn the recommendation of the modification group. Otherwise it is repetition of what is in the final modification report.

Q3 Should code administrators be able to raise modifications themselves? If so, should there be limits on what modifications they can raise or should they have to gain consent of the code panel to the raising of the modification?

The code administrator should have the powers to raise modifications with the consent of the code panel. Any modification group formed to discuss an administrator’s modification should be chaired by a panel member rather than the secretariat to ensure a level playing field.

Q4 Would it be useful to develop a code of practice applying to all code administrators? Should it be voluntary or binding?

A code of practice would only be useful if it was binding, and made a serious attempt to introduce conformity across codes, rather than a list of where the codes already conform or could do so with little effort.

Q5. What are the most appropriate mechanisms to evaluate the performance of code administrators? Is a scorecard approach appropriate?

If the code administrators are appointed by service contract, and their objectives and KPIs properly set, then they should be judged on that basis, and additional performance evaluation measures are unnecessary.

Chapter 6

Q1 Do small participants, new entrants and consumer representatives face significant hurdles in engaging with the code governance process?

As a small market participant, (defined as having less than 100,000 domestic customers or equivalent rather than that proposed in the consultation) Good Energy has severe difficulty keeping abreast with developments across all the codes, never mind engaging in the actual processes. Good Energy only engages where it has the potential to have an adverse affect on the business, or it has a significant impact on sustainability.

The complexities of the codes are not a problem, as they reflect a complex market, but are a resource commitment which has no economies of scale. Most of the larger market players have whole teams dedicated to engaging with the codes, whereas Good Energy has a team of two, who must also cover issues arising from Ofgem, government and the renewable industry.

The complexity of having different processes for all the codes is a problem as it means that keeping track of what is happening is difficult, especially if the only way to follow through is by attending meetings. This is accentuated where different codes run meetings concurrently.

Q2 What are the key issues that need to be addressed in order for small participants and others to better engage with the code governance processes?

The key issue is one of resource. There are no economies of scale in dealing with the codes, and as such, for small participants to participate on a level of the larger companies would

require the same resource. We urge Ofgem to ask what resources are committed to codes by the larger player to understand the severity of the problem.

Having to deal with eight different codes, with eight different ways of doing things adds to the complexity and resource required to do things. Some codes allow participation by submitting written responses to questionnaires. Others only really allow participation by attending meetings. Conformity between codes would benefit all suppliers large and small.

Q3 Do you have any views on the options highlighted in this chapter? Do you have any views on the advantages and disadvantages discussed under each option?

Option 1: Few small participants can spare the resource to take a permanent seat on any code panel, and most of the time this would not be viewed as best use of limited resources. Greater use of remote involvement would help to some extent, but this needs to be managed as being the only meeting attendee not in the room rarely allows the remote attendee to participate fully without strong chairmanship.

Some code administrators already take actions to consult smaller participants, but this is not routine. If it became routine then the resource required to respond would become an issue.

Option 2: We would welcome a process which helps alleviate the cost of engaging with the codes. However, rather than set up an advocacy panel, the appropriate code panel should be responsible deciding whether input would be preferable from a consumer representative and/or smaller participant. Either on request from a representative of such an organisation, or on their own volition if they felt the issue merited it. The fund should pay travel expenses and a fixed daily rate, although there will be an onus on any participant to send a suitably qualified individual as an expert rather than a representative.

Option2a: we would not favour this for the reasons outlined above.

Option 3: This does not help small participants

Option 4: Whilst keeping impact on smaller participants at the forefront of any discussion is helpful. It would result in the larger participants attempting to anticipate the impact on smaller parties and consumers, rather than engaging them. We believe it would be best for the appropriate panel to decide the simple decision of whether parties need to be involved or not, and seek involvement where this is the case.

I hope you find these comments useful. Should you require any clarification, please do not hesitate to contact me.

Yours sincerely,



Chris Welby
Commercial Director