MRA

Appendix

<u>Major Policy Review and Self Governance</u>

5.   Proposed "Self Governance" process

Question 2: Should it be mandatory for panels to have a consumer and a small market representative?

The MDB representative rotates amongst Small Suppliers and we feel that there is a great value in having small Supplier representatives actively involved in discussions on the change process. This commitment by MEC to all-inclusive market participation is evidenced by the advent of small Supplier representation in 2003. With regards to the consumer representative, it should be noted that Ofgem were invited to the MDB (pre-Energywatch), and thus in addition to its primary role as regulatory body, also adopted a consumer focus approach. Some years ago MEC sent an open invitation to energywatch to attend MEC meetings, and this offer is still open to Consumer Focus. MEC could invite Consumer Focus to attend meetings on a six monthly basis, and thus limit the involvement to the policy level. This strategy of "targeted engagement" would help small market representatives to ensure that resource is not spread too thin.

Question 3: What voting procedures should apply governing code decisions?

We support continuing with the current MRA Change Process. It is a rare occasion where agreement cannot be reached at MDB. The whole structure of the MRA is predicated towards consensus building and moving towards an agreement: this is shown through the Issue Resolution Expert Group, the Solution Pre-assessment Forms (SPFs), with the MDB voting process and the right of appeal. From 1998 through to 2008 there have been 22 appeals taken to the MRA Forum. The fact that there have been so few appeals is testament to the success of the current system in reaching agreement.

Question 4: What Appeal mechanisms should be in place? Should defined appeal arrangements be set out or should Ofgem have discretion over whether or not to hear an appeal?

The criteria for Ofgem involvement should be on the basis of whether any given party has had their rights hindered.

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Question 5: Should a consumer and small participant representative have an automatic right of appeal?

This would be inappropriate, as an automatic right of appeal would create a scenario of asymmetric appeal rights. Any and all parties to the relevant code should have the right to appeal.

Chapter 3.

Question 1: Once a modification has been raised, should the filtering decision be taken by Ofgem (with a panel recommendation) or by the relevant panel with an Ofgem veto?

MEC response - the structure of the MRA determines if a modification will go to Ofgem i.e. it is set up in a way that dictates the filtering mechanism. This is done through MRA Clause 9.5.1, which requires Authority Consent for any modifications contained within it. There have been 33 modifications over the period 2002- 2008 that required Authority Consent. It should be noted that the MRA Clause 9.5.1 makes the distinction between fundamental differences and supporting processes that are of an operational nature as opposed to policy.

Rather than a veto power, it would be better to have an intermediary stage, with Ofgem taking more of a part in the policy stage. This would ensure that Ofgem will be aware of the background to any potential modifications, and any objections could be dealt with in terms of dialogue, as opposed to a veto at a later stage. In the past, instances where Ofgem have got involved in the change process, such as the Breach and Appeals process, have proved extremely beneficial.

Question 3: How should we treat modification that fall within the scope of an existing Major Policy Review?

Effective communication mechanisms need to be in place between Ofgem, Code Administrators and Parties to Agreements to ensure there is full transparency. The MRA promotes interoperability and thus is a system that produces incremental changes. Due to the reviews that are carried out under the MRA (post-implementation review), a moratorium would not be necessary.

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<u>The Role of Code Administrators</u>

<u>Chapter: Two</u>

Question 2: Are some code administrators more accountable than others?

The ownership structure of the MRA ensures accountability to MRA Parties and we have an 'intelligent' secretariat that means beyond the standard service, MRASCo provides technical analysis on the change process. We have a MEC sub-committee- Services Agreement and Finance Expert Group (SAFEG), where changes to the Services Agreement are negotiated, and an annual independent customer satisfaction survey. These features ensure that there is sufficient accountability and an emphasis on process improvement

Question 3: 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?

The MRA has sufficient features to make things clear to small participants, and this can be shown through: the "Introduction to MRA Seminar" which takes place twice a year and covers Background and role; governance and services; MRA contents; and MRA products. There is also a monthly MRA newsletter and the MRA Helpdesk. Also within the product set, there is the MRA Agreed Procedure (MAP06) "Change Management Procedure for MRASCo Products" which sets out the change process. Aware that we can always improve and keep as much of the MRA in plain English as possible. New entrants, whether they be a Supplier or a Distribution Business work with the Assurance team in order to ensure interoperability. The Assurance team "hand over" the new entrants to the MRA Delivery Team, who are there for advice and guidance as deemed necessary.

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Question 4: Do small participants, new entrants and consumer representatives find it difficult to engage with the code modification process?

Small participants, new entrants and consumer representatives all receive support from the MRASCo team that can be used to enhance their understanding of the change process.

Chapter: Three

Question 2: 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?

Due to the nature of the Services Agreement, MRASCo is a combination of both. In addition to the 'normal' secretariat duties, there is the provision of advice, technical analysis on changes, and engagement with participants all the way through the change process. Of the 32 Change Proposals raised in 2008, 19 were raised by the code administrator with MRA Party sponsorship. From the number of changes that have been raised with our input, it is clear that the role of code administrator for the MRA works well.

Question 3: Should the roles of the administrators of the BSC, UNC, CUSC, Grid Code, SPAA and MRA in respect of central systems management be harmonised i.e. should all code administrators either be made responsible for the related systems or should this responsibility be removed from them all?

As long as the correct control and incentive frameworks are in place there is no need to require harmonisation.

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Question 2: Should all the major commercial codes have the same corporate governance structures? What is the most appropriate governance structure?

There would be benefits in applying a corporate governance structure across all the codes as these models work well. Over recent years there has been code governance that appears to mirror the MRASCo model.

Question 5: 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?

Yes. This is a good model and works well. MEC recommended this as a fiscal control framework. MRASCo is a cost recovery organisation, working on a contractual basis, and thus charges market participants. The table below shows that there has been a fall in costs of 35% over the course of the Services Agreement, whilst the range of services has increased e.g. ECOES and CAS. There is more control over service providers as there is always the option to go out to tender. This ensures that there is sufficient incentive for process improvement initiatives.

Year	MRASCo Budget (£)
1999/00	5,439,000
2000/01	4,515,080
2001/02	4,420,000
2002/03	4,100,000
2003/04	3,859,000
2004/05	3,849,000
2005/06	3,806,000
2006/07	4,117,000
2007/08	4,054,500
2008/09	4,137,000
2009/10	4,238,000
2010/11	3,549,500

Chapter: Five

Question 1: Should Ofgem have powers to "call in" and "send back" modification proposals? What are your views on the "call in" and "send back" options?

Due to the fact that Ofgem are already engaged in the Modification process, the need for this function within the MRA is questionable.

Question 2: Should all Code Panels have to publish the reasoning behind their recommendations?

Where Code Panels or Code Parties are making decisions on modifications or change proposals the rationale for the decision made should be published.

Question 3: 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?

Code Administrators should not be allowed to raise changes without the sponsorship of a Code Party. It is too much of a departure from their *raison d'être* which is to administer, not actively engage in the change process.

Question 4: Would it be useful to develop a Code of Practice applying to all code administrators? Is a scorecard approach appropriate?

Rather than develop a Code of Practice to achieve commonality across codes in relation to document definition, content etc, Code Administrators could take this work forward on a collaborative basis. Introducing a new Code of Practice appears to be unnecessarily burdensome. Assessing the performance of Code Administrators can be achieved in a number of ways; there could be some benefit in combining a scorecard approach with the Customer Research Survey carried out annually on MRASCo.

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Chapter: Six

Question 1: Do small participants, new entrants and consumer representatives face significant hurdles in engaging with the code governance processes?

We do not feel that the problems they face arise from attempts to comply with code governance processes. The main hurdles they would face (if any) are more likely to be availability, resources and priorities.

Question 3: 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?

General statement

Continual engagement from Ofgem would prove beneficial to the smooth running of the change process for example Ofgem's input during the Breach and Default Review Process was extremely valuable.