

Mark Feather  
Director Industry Codes and Licensing  
Ofgem  
9 Millbank  
London  
SW1P 3GE  
27<sup>th</sup> February 2009

Your ref 173/08  
Name Alan McAdam  
Phone 07989-493836  
E-Mail alan.mcadam@rwenpower.com

## **Code Governance Review: role of code administrators and small participant/consumer initiatives**

Dear Mark,

Please find below our response to the above consultation. We have structured our response to answer the questions raised in the consultation.

### **Key issues and objectives**

**Question 1:** Are the Authority's concerns regarding the quality of analysis undertaken through the code modification processes justified?

*No - This is an evolving process and where there have been deficiencies, the panel has recognised this and taken steps to redress them. There is an obligation on all players engaged in the modification process to ensure that the scope of required analysis is defined early on in the process.*

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

*Code administrators are accountable according to their "contract" which details what service they are to provide. It is debatable whether all the codes should have the same type of contract since the codes cover different industry participants and areas of work. The "contract" needs to reflect these aspects.*

**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?

*All the administrators attempt to make their codes accessible but some of the detail by its nature is complex, this is a complex industry. There are existing ways in which small participants, consumer representatives, and new entrants can engage with the industry through trade bodies, collective representation etc.*

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

*This would be for these types of participants to answer but as we have stated in our answer to question 3, there are existing ways in which they can engage. If we were a small player we would need to be able to identify which modification impacted on our business, find a channel to better understand the impact, what are the various options and how we can input into the process either directly or through a third party.*

#### **RWE npower**

Trigonos  
Windmill Hill Business Park  
Whitehill Way  
Swindon  
Wiltshire SN5 6PB

T +44(0)1793/87 77 77  
F +44(0)1793/89 25 25  
I www.rwenpower.com

Registered office:  
RWE Npower plc  
Windmill Hill Business Park  
Whitehill Way  
Swindon  
Wiltshire SN5 6PB

Registered in England  
and Wales no. 3892782

## **Roles and responsibilities of Code Administrators**

**Question 1:** Do you agree that the quality of analysis in code modification reports could be improved? Should the role of the code administrator be changed to help enhance the quality of code modification reports?

*This is an evolving process and where there have been deficiencies, the panel has recognised this and taken steps to redress them. There is an obligation on all players engaged in the modification process to ensure that the scope of required analysis is defined early on in the process. We do not believe it is necessary to change the role of the code administrators in this case.*

**Question 2:** Which of the options for changing the role of the code administrator in the modification process (critical friend or active secretariat) is most appropriate? Should different options be chosen for different codes?

*For the reasons outlined in Q1 of this section, we do not believe this to be necessary.*

**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?

*We do not share the same concerns, we have noted issues where cost information has not been forthcoming once requested, nor have we identified any examples where there has been a conflict of interest.*

## **Governance and funding**

**Question 1:** 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?

*We don't believe you can make such a blanket statement to cover the present structures that are in place. The question should be are there any issues with the present structures in place for the codes and if so how should these be addressed on a code by code basis. We have not identified any such issues.*

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

*As noted by Ofgem there are three types of corporate governance structure. In the past the model adopted has been due to logical reasons associated with what the code was governing and the interest of relevant parties. At this stage we would suggest that the case has not been made for a radical change, therefore the proportionate response would be to leave the present structures in place.*

**Question 3:** 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 believe that they are accountable, in different ways, which depend on the structures in place for the individual codes.*

**Question 4:** Code administrators are currently funded by cost pass through (BSC), service contracts (SPAA, MRA, DCUSA and iGT UNC) or price controls (CUSC, Grid Code, UNC, STC). Which of these funding arrangements is the most transparent and accountable?

*Cost pass through and service contracts are more transparent than price controls but the latter approach may be appropriate in situations that require the engineering expertise to be provided on a needs basis.*

**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?

*We do not believe that this alters our position from that of the answer we have given to Q4.*

**Question 6:** Should the funding of the code administrators for the CUSC and UNC be removed from the relevant network owner price controls?

No.

### **Other potential improvements**

**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?

*We believe that this would be a retrograde step. Ofgem should engage in the process earlier on and not just turn up at meetings and say nothing. Ofgem’s proposal would add uncertainty and delay to the process and potentially reduce the quality of work carried out during the modification process.*

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

*We would support this.*

**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 the consent of the code Panel to the raising of the modification?

*No. If the code administrator cannot find a signatory willing to raise the modification then it is likely that the modification has no significant value to any signatory.*

**Question 4:** Would it be useful to develop a code of practice applying to all code administrators? Should it be voluntary or binding?

*It might be useful to look at best practice across the code administrators and where there are benefits, for each code administrator to adopt these. There may be good reasons why there should not be uniformity across all codes.*

**Question 5:** What are the most appropriate mechanisms to evaluate the performance of code administrators? Is a scorecard approach appropriate?

*Scorecards do not always deliver improvements, as long as the code administrators are accountable to their customers and there are appropriate challenge processes in place then this should deliver the appropriate service.*

## **Small participants, new entrants and consumer representatives**

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

*All parties as part of engaging with this industry need to set up appropriate methods to ensure they understand the code rules, how they impact on them, what modification proposals mean and if necessary how they can engage in this process. This applies to large, medium and small companies. Small companies need to set up the appropriate means to achieve this; there are mechanisms and organisations in place to do this on their behalf.*

**Question 2:** 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?

*See our answer to Q1 above.*

**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?

*If the code administrators are doing their job correctly all parties should be able to access the information relevant to their participation. All parties in this context can mean organisations or persons that operate on behalf of classes of participants. There is a cost to participating in this market that is the cost of doing business; this should apply to all regardless of their size. It is up to individual companies to find way to reduce this cost to a minimum commensurate with the engagement which is appropriate to them. Otherwise we have subsidies.*

**Question 4:** Which options, if any, do you consider will allow small participants and others to engage better with the code governance processes?

*See our answer to Q3 above.*

**Question 5:** Are there other options which we have not yet considered which may assist small participants and others to play a fuller part in the codes governance processes?

*See our answer to Q3 above.*

If you wish to discuss any aspect of our response, please do not hesitate to contact me.

Yours sincerely

Alan McAdam  
Wholesale Economic Regulation Manager