

Code Administrators Working Group Meeting 5 –17/12/2008

Attendees:

Roger Barnard – EdF Energy	Phil Lucas – National Grid
Peter Bolitho – E.on	Rosie McGlynn – EdF Energy
Tim Davis – Joint Office	Ed Reed – Cornwall Energy
Jon Dixon – Ofgem	Chris Rowell – ELEXON
Robert Hammond – Consumer Focus	Chrissie Sykes - Statoil
Raeid Jewad - BERR	David Watson – Centrica
David Jones – ELEXON	Catherine Wheeler – Ofgem

Introduction

The note from the fourth CAWG meeting was discussed. One comment to be incorporated into the note was that there appeared to be a consensus of opinion nearer the end of meeting 4 that code administrators should simply co-ordinate the consultations around a modification proposal and collate the responses. They should then present all arguments raised for and against the proposal to the Authority without any comment on whether it should be accepted or rejected. In other words they should be procedural organisations rather than decision making or even recommending bodies, characterised as “panel-lite”.

This and other minor comments were agreed and will be incorporated in the final version of the note.

JD gave a brief update on the other work-strands of the Code Review, including an overview of the forthcoming consultation documents.

A group member wanted to know whether a definition for “small” parties had been decided. JD advised the group that Ofgem will be seeking views on what the definition should cover in their upcoming consultation on small party initiatives.

It was noted that the consultation on the governance of charging methodologies is due to close out on the 16th January, and that it may be appropriate for the group to consider and possibly comment on its recommendations in the context of charging methodologies, in addition to normal code provisions.

Discussion on Final CAWG Report

Owing to other commitments a new author for the draft report had to be found. The group agreed that Ofgem should provide the initial draft of the CAWG report. JD highlighted that although Ofgem would be drafting the report the group would have to ratify it, as Ofgem did not want the report to become an Ofgem report submitted to itself.

One member commented that Ofgem may be better placed than an individual group member to write the report from an independent viewpoint. Following discussion on potential structure, it was commented that the report should be as short and concise as possible and needn't provide exhaustive background. It was suggested that a bullet point list of recommendations should be in the report, with the justification for each. Another group member felt that the report should include a suggestion on how these changes would be achieved. One group member pointed out that a lot of the CAWG discussion had crossed over to areas being covered by other work-strands and that the conclusions from these

discussions should be included in the report. One member suggested that there could be a table listing 'best practice' and what each of the codes would have to do to achieve this.

Discussion of Pro-forma Responses

CW gave an overview of the responses to the pro-forma questionnaires. It was noted that each pro-forma related to an issue that had been recorded on the issues log, and whilst it had originally been expected that respondents would focus on what they considered to be the priorities, the majority of respondents had provided comment on each of the issues. JD requested that having discussed the responses, the group provide a conclusion which could be captured in the report.

There was general support in the responses received for the concept of introducing a code of practice (CoP) for code administrators. The group discussed this and expressed support, though it would depend on what this CoP would include. It was generally agreed that it should highlight where codes should be aligned but that it would also need to consider the fact that each code is designed to govern very different aspects of the market and therefore it would be difficult to completely align the codes.

One group member felt that the CoP should be mandatory and Ofgem should make it clear that the CoP supersedes any instructions written in the separate codes and licences. They felt that if the CoPs were not mandatory then code administrators would be likely to follow what is set out in their individual codes rather than follow the CoP. Some argued that the codes worked differently from each other in certain situations because they had different tasks and priorities. If the CoP was mandatory, it would have to be in key areas where the codes could be aligned without jeopardising the purpose of each code.

A suggestion was made that the individual CAs should meet outside of the CAWG group and identify where their process could be aligned. They could then bring this back to the group and it could be attached as an appendix to the final report.

It was noted that each CA issued monthly updates on their website on mods meetings and related issues. It was suggested that Ofgem should adopt this practice and publish a page on its website dedicated to this. The Ofgem representative agreed to consider setting up a page on the Ofgem website that would provide links to each of the existing CAs update pages.

A group member felt that the JO and CUSC website were clearer and easier to use than the BSC's website as they were focused specifically on change. They felt that Elexon should separate its mods and panel issues from its other work areas. Another group member felt that none of the websites were particularly useful to them.

It was noted that there are companies in the market who already publish all the mod information of all related codes on their websites and that parties could use these. It was agreed by the group that there was no appetite for an all encompassing webpage/newsletter/update on all mods as this is already available to parties who want it.

It was suggested that the CAs should meet up and critically review their websites and from this review produce a best practise. Another group member felt that this could be extended to include other areas of the CAs work such as notification emails, newsletter, etc.

A suggestion was made that there should be a tick-box of options on a mod proposal form that the proposer could use to identify which parties they felt might be influenced by a mod. It was also suggested that there should be a tick-box for the mod proposer to identify the level of impact a mod may have. It was pointed out that the impact would need to be considered in terms of a number of different issues such as competition, consumer influence, etc. One group member wanted to know what would happen if a proposer had not ticked a box because they felt that a particular group would not be influenced and it turned out they were influenced but it. It was generally felt that in this situation the chair of the mod group would be responsible for highlighting the situation to the affected parties.

A group member felt that parties who considered themselves to be “small” should identify themselves as such to the CAs and make them aware of their needs. This way the onus does not lie with the CA to identify which parties should be considered to be small.

A group member felt that the CoP should include an instruction to CAs that they must make a conscious effort to include small parties in the modification process.

The suggestion that was received in one of the pro-forma’s that CAs should pay the expenses of smaller parties to enable them to attend mod group meetings and panel meetings was discussed. Some codes pay the travel expenses of individuals involved in a mod, where they are attending as experts and being asked to act independently. It was suggested that the payment of expenses should be extended to include smaller parties and therefore an obligation could be placed on other codes to pay costs. It was pointed out by one member that the DCUSA has this facility, though a mod had recently been raised to have this facility removed, which was subsequently rejected by Ofgem. The larger parties felt that they should not have to fund the smaller parties to attend meetings. The smaller parties felt that the payments would help in enabling them to attend more meetings. It was pointed out by another member of the group that it wasn’t just the costs that were the problem for smaller parties; it was finding the time to attend the meetings, as smaller parties tended not to have dedicated personnel to deal with codes. Another group member felt that the costs of paying for expenses was not a lot for larger parties and could not see a problem with facilitating smaller parties in this way. It was felt by the majority of the group that there was not an appetite to extend this facility to other codes.

There was a suggestion that there should be a standard template for mod proposal forms. This was agreed as long as the standard template was considered to be the minimum information required as some codes and mods required more information than others.

It was also suggested that the mod proposal should start with a short (50-100 word) synopsis on what it intends to do. A group member felt that the language used in a number of mods was difficult to understand for those on the “cusp” of a code. It was suggested that as much of the mod report as possible should be written in plain English. Another group member agreed, but raised the concern that this may dumb-down the proposal to the point that it doesn’t achieve what it set out to do. It was noted that the language of mod proposals should be consistent as far as practical. If the CA provided a plain English description for each change this would allow for consistency in the drafting. Others disagreed and felt the proposer should only draft as it should not be up to the CA to edit a proposal to make it understandable as they may misinterpret the mod.

A suggestion was made in one of the pro-forma responses that there should be periodic education seminars on all the codes together. One group member felt that it would depend on what information was to be included in the seminar as the BSC education seminars alone, take nearly a day. Another group member pointed out that these were already carried out by energy consultant companies. It was agreed that periodic education seminars on all the codes were not needed.

Main issues to be raised in the report

As it was coming near to the end of the meeting, in order to assist Ofgem in its initial drafting it was decided that each member of the group should state the key recommendations that they would like to see in the final report, with an indication from the group on whether this was a consensus view.

- The proposer should be the owner of the mod at all times – this was agreed by the group.
- Legal text should always be consulted on – This was agreed in principle by the group but a number of them felt that it would depend on the exact time and processes involved and the panel should also have an opportunity to request that legal text not be produced.
- Code administrators should be separate legal entities wholly owned by the parties to the code, and there would be no funding without representation – agreed by a number of the group.
- Under the UNC urgent modifications should be put forward to the panel for them to recommend whether it believes that the proposal fulfils the relevant urgency criteria or not and whether it believes that the proposal is sufficiently clear to be issued for consultation – This was agreed by the group.
- Under the UNC the deadline for the raising of an alternate proposal should be restricted to a point prior to the panel direction that the original should proceed to consultation.
- Plain English should be used in all mod reports where possible – agreed by group.
- The concept of the CA acting as a “critical friend” should be included in the CAs terms of reference.
- There should be a consent process under the BSC – this was agreed by the group.
- More use of the pre-mod process should be made in the BSC before a modification proposal is formally raised – this was agreed by the group as long as using the pre-mod processes were optional.
- A non-binding code of practice should be produced – agreed by the group.
- There should be common modification procedures for all codes and these should be entrenched in the licence conditions and prevail over core-documents – this was agreed with the caveat that it would depend on what those procedures were.
- The documents related to modification procedures should be standardised using common names for the same processes, etc – agreed by the group.
- CA should procure legal advice to produce legal text for mods and should also have discretion to procure specific expert support – agreed by the group.
- Panels should set up implementation dates linked to system impacts only where the system is impacted – agreed by the group
- Ofgem should publish papers, decisions, notes, etc related to modification decision like the CAs have to. The Authority should be more transparent - agreed by group.
- The costs of participation should be addressed, possibly through reduced reliance on physical meetings– agreed by the group.

Comment [p1]: On further consideration of this issue the group member who suggested it felt that there would be practical difficulties in implementing this in the manner stated. Their key concern is that an alternate (raised within the 5 days following Panel direction that the original proposal should proceed to consultation) effectively proceeds to consultation without the need for the Panel to so direct. Consequently there is no panel check that the alternate is clear and fully developed.

The group member has suggested that any solution that requires the alternate to obtain the Panel approval to proceed to consultation would be preferable to the prevailing terms.

It was agreed that issues and comments which appear to be outwith the CAWG Terms of Reference could still be captured in the report, with appropriate reference if dealt with elsewhere.

Future Work Plan

Action - Ofgem to draft final report.

DRAFT