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Our Reference:
Your Reference:

Date : 25th June 2009

Dear Mark,

The “timing-out” of code modification proposals

Thank you for the opportunity to comment on Ofgem’s revised proposals regarding the above. As stated in response to Ofgem’s earlier consultation, we support Ofgem’s proposal to remove the potential for modification proposals relating to the BSC, CUSC and UNC to “time-out” before the Authority has made its decision. This is a pragmatic proposal that in our view would improve the overall operation of industry code governance.

Ofgem’s revised Option C, which recognises the need for the relevant code panels to have an input and the potential requirement for analysis to be updated, appears in principle to be an appropriate means of implementing Ofgem’s proposal. However, this is subject to the panel retaining the right to provide a revised recommendation to Ofgem following any revision to relevant analysis, etc. Clearly, the ability to provide a revised recommendation on the basis of new or updated information is key to maintaining a fair and proportionate governance regime, including a robust appeals procedure. Therefore, the amendments to the relevant licence conditions must provide for a revised recommendation to be provided to Ofgem by the panel (this is not currently provided for in the draft legal text).

In addition, the proposed licence amendments to the BSC and CUSC contain a typo in the new definition of “Implementation Related Dates” which refers to 4(b)(iv) and 6(b)(iv) for the BSC and CUSC respectively. In both cases, the roman numeral four should be a roman numeral six i.e. “(vi)”. Also, for all three proposed licence amendments we believe that paragraphs 4A(b), 6A(b) and 15A(b) should have an “and” at the end for clarity and consistency.

I hope that our comments are useful. If you would like to discuss any of the above further, please do not hesitate to call.

Yours sincerely

Rhona McLaren
Regulation Manager