

The Gas Forum



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Dear Mark

Major Policy Reviews and Self Governance/ Role of Code Administrators and Small Participant/ Consumer initiatives

The Gas Forum welcomes this opportunity to comment on the strategic options set out within these two consultation papers. The Forum recognises Ofgem's desire to reform Governance arrangements in light of the current political and environmental objectives however we do not believe the case for extensive reform has been made or is warranted at this time.

We agree that there is room for improvement in promoting more inclusive, transparent and effective consultation however we note that change needs to be carefully thought through and tested before being implemented so that future arrangements are robust and do not lead to even more complexity and costs for industry and consumers alike.

The Gas Forum is able to provide some high-level principles on the two consultations which we hope Ofgem will find useful. Whilst these principles have been discussed at length in the Gas Forum Governance Group, they do not fully represent the views of all Gas Forum Members.

We would also note that any reform to the current Governance arrangements should be overviewed by the Better Regulation Task Group and assessed whether it has improved or deteriorated the service and impact to customers.

We look forward to receiving Ofgem's initial views on these two consultations however please feel free to give me a call on 02476 183384 if you wish to discuss this matter further.

Yours sincerely



Peter Bolitho

Chairman of the Gas Forum

Major Policy Reviews

The Gas Forum support Ofgem's view that a coordinated approach to the delivery of strategic change would be beneficial to market participants and to consumers. We note that Ofgem already has extensive powers in this area to make industry changes whether directly through Licence Condition changes or indirectly through the Transporters. We do not feel that this has necessarily worked well in the past¹ and has led to costly, prolonged and over complex change spanning several years such as: NTS Exit Reform, Substitution and Price Control Capacity Baseline reductions.

We believe many of these issues could have been efficiently resolved through early industry engagement rather than later on down the road when change has already been set in stone. However, this is not to say that the UNC modifications process was at fault. Experience over the recent years has demonstrated the difficulties that can result from a piecemeal approach to strategic reform. There will need to be significant commitment both from Ofgem and from market participants to ensure that these reviews are well managed and coordinated.

We welcome Ofgem's proposals which will make the process more transparent and accessible however, this will give Ofgem greater powers which will need to be carefully controlled through strict checks and balances so that the process is not misused.

In terms of the three options Ofgem has provided we do not have a preference however note that Ofgem's direct involvement may have adverse implications in terms of limiting reform and achieving the most efficient and effective reforms, especially if misused for political or strategic interests. We agree with Ofgem that more transparency and engagement from Ofgem's perspective is needed however we do not believe any of the three options presented are warranted or needed to achieve this. Ofgem should be setting policy direction albeit without the "legally binding" side as this could hinder effective change later on down the line with adverse consequences and costs for consumers.

Option 1

Advantages	Disadvantages
<ul style="list-style-type: none">• Is most related to the status quo• Limited role of Ofgem to develop the detailed business rules• Impacted parties remain progenerator and developer of change• Could utilise the UNC Review Group process and so limit Ofgem's control	<ul style="list-style-type: none">• Status quo has failed to deliver Ofgem policy that is supported by the industry• Ofgem act as originator of policy and decide on the benefits of it• Ofgem's track record in delivering clear high level objectives• Risk that Ofgem will force parties to develop the proposal that it wants• Significant resources required in attending workgroups, raising a CC appeal, attending development workgroups

¹Many the problems arise from principles agreed between Ofgem and NGG and set out in NGG's license over which Gas Forum members have no direct say. Interpreting such general obligations can be difficult but does not necessarily mean the modification process is deficient.

Option two

Advantages	Disadvantages
<ul style="list-style-type: none"> • Ofgem required to deliver clear high level objectives • Could utilise the UNC Development Group process to limit Ofgem's role • Limited role of Ofgem to develop the detailed business rules • Impacted parties remain progenerator and developer of change 	<ul style="list-style-type: none"> • Ofgem act as originator of policy and decide on the benefits of it • Ofgem's track record in delivering clear high level objectives • Risk that Ofgem will force parties to develop the proposal that it wants • Significant resources required in attending workgroups, raising a CC appeal, attending development workgroups

Option three

Advantages	Disadvantages
<ul style="list-style-type: none"> • Clear who the originator of proposal and legal text is • Could utilise the UNC Development Group process to limit Ofgem's role • Clear accountability for success or failure • Ability for parties to raise alternates • Requirement for full engagement and resourcing of issues by Ofgem 	<ul style="list-style-type: none"> • Ofgem act as originator of policy and decide on the benefits of it • Resources required by industry to facilitate this over and above current arrangements?

Self Governance

We welcome the move to embed enhanced self governance processes within Codes. We cannot comment on electricity however in Gas this has proved to be extremely effective under the auspices of the Supply Point Administration Agreement (SPAA) and I&C Code of Practice which the Gas Forum initiated and successfully delivered. Code Parties should be making the decisions on the majority of modification proposals raised and with a route of appeal to Ofgem if required. We look forward to reading Ofgem's views on how their filtering processes for determining which modifications can be self governed will be structured and used.

Code Panels

The rules for electing panel members should be clear and transparent and should not favour a particular individual or group. The election should be facilitated by an independent party and results published in a clear and transparent manner. We do not believe that the merits under which modifications are judged by panels should change and welcome Ofgem's view on this.

On the topic of appeals we believe that the current process must not be diluted or undermined. More robust analysis and proactive involvement of Ofgem earlier in the process will reduce the prospect of appeals; however we need to be careful that any "legal binding conclusions" under Path 1 do not inadvertently reduce the scope of the merits based Competition Commission Appeal process. It is therefore essential that appropriate checks and balances are provided under the new regime to maintain the current rights of affected parties.

We do not think there is a requirement for particular affected parties (e.g. consumer representatives or small participants) to have an automatic right of appeal. The current appeals process is not limited to code signatories but all affected parties, and we think it would be discriminatory to favour one particular group over another.