

Jon Dixon,
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OFGEM,
9 Millbank,
London,
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26th August 2009

Dear Jon,

Code Governance Review – role of code administrators and small participants/consumer initiatives

Thank you for the opportunity to comment on the above consultation. As you know, Good Energy is a small renewable energy supplier, focussing on providing an opportunity for energy consumers to mitigate their affect on the climate.

We have responded below on your specific questions, expanding where necessary to complete our views.

1. Which activities should be considered within the scope of the ‘critical friend’ approach?

As far as we are concerned, there are two main elements of an administrator being a ‘critical friend’ to small suppliers. Firstly, they should understand the inability of smaller participants to monitor and respond to every modification and change request. As a critical friend, they should ensure regular contact with smaller participants to understand their business, and make a point of drawing parties attention to any modification, change etc. they feel may have an impact on their business (both positive and negative). This includes ensuring a small participant impact assessment is carried out on change proposals.

The second role is to assist smaller participants to raise changes to the codes. This would include an honest, independent assessment of the likelihood of success, including where the main opposition is likely to come from. They should assist with the drafting of the proposal, and ensure that they are not swamped in review groups by larger players using their resources to stall or significantly hinder the proposal.

On a more general note, they should ensure the final proposals which are submitted to the Panel and then the authority are fit for the purpose intended. There are several examples where perfectly good

modifications have been rejected because the expert group have presented a poor analysis of the proposal.

2. What is the appropriate mechanism to introduce the 'critical friend' approach?

We believe that the appropriate mechanism may vary from code to code, but the essence should be to mandate the code administrators to act as 'critical friend' to all participants, but providing independent, supportive assistance to smaller signatories to the relevant code. We believe this would be best served by ensuring all code administrators are independent of any other interested party, especially network operators.

3. Should a specific obligation be placed on code administrators to assist smaller participants and consumer representatives?

Yes, but it should be a wider principle of ensuring that smaller participants are not disadvantaged. A code administrator should not be able to discharge this obligation by saying that they sought views and none were forthcoming. They should ensure that the impact on smaller participants is considered on all proposed changes, and if necessary apply their own skills and knowledge to what that impact would be especially when the changes are quite technical and beyond the understanding of non-experts (e.g. Formula changes on complex calculations).

4. For the purpose of identifying those who will be offered greater assistance by the code administrator, what is the appropriate threshold between small and large participants for each category of party?

We are happy for supply to be set at one million supply points.

5. Is it appropriate to modify the Gas Transporters licence in order to provide voting member status to consumer representatives on the UNC?

We have no views on this

6. Are there any other bodies in addition to Consumer Focus which the Authority should consider as potential consumer representatives on the UNC?

Any Consumer representative should sit as an expert in consumer affairs, especially energy. The position should not be considered as a consumer focus seat, although the expert may come from that organisation.

7. Do you agree that the Authority should appoint the chairs of the UNC and CUSC panel in addition to the BSC?

We are very disappointed that Ofgem has recognised that the creation of independent company structures for code administrators is the best way forward, and then decided against it. Most small participants do not interact with the Panel chairs, they interact with the secretariats and until they are independent of NGC, the perception of bias towards NGC mindset will continue. This is especially crucial when raising a modification which will not find favour with NGC or established players who dominate the Panels. We strongly urge Ofgem to reconsider this point.

There seems to be a mis-understanding of how much smaller participants interact with the relevant Panel and how much time is spent interacting with the secretariat. We do not believe the appointment of independent chairs will make any material difference, as we rarely, if ever interact with them.

8. Should such an appointment be made only at the end of the current chairs ordinary tenure?

We have no opinion on this.

9. How should the salaries of independent chairs be funded?

Given that we do not believe the appointment of independent chairs will make a material difference, we do not believe parties should fund these appointments.

10. What is the appropriate mechanism by which these proposals can be introduced?

We have no opinion on this.

11. Do you consider it necessary to include the powers to “call in” and “send back” modification proposals within the relevant licences?

We believe these powers would be prudent, but hopefully prove unnecessary as a result of other changes.

12. Do you consider that a licence modification requiring a more explicit provision of reasons for recommendations is appropriate?

No, but should be encouraged as best practice.

13. Do you consider that a regular scorecard evaluation of the code administrators’ conducted by Ofgem would be of value, particularly in influencing the behaviour of code administrators?

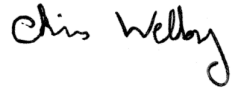
Only for those Administrators who are independent, especially if the secretariat service is operated on a tender process.

14. Do you consider that code administrators' should be required to obtain and maintain ISO9001 accreditation for their processes?

Yes.

I hope you find these comments useful. If you would like to discuss further, please feel free to contact me.

Kind regards,

A handwritten signature in black ink that reads "Chris Welby". The signature is written in a cursive, slightly slanted style.

Chris Welby
Commercial Director