

Catherine Wheeler
Ofgem
9 Millbank
London
SW1P 3GE
14 May 2010



Dear Catherine

Re: Open letter consultation—Code Administration Code of Practice

This is a personal response to the *Code Administration Code of Practice* consultation. Many of the points are supported by members of our Energy Suppliers Forum¹, but this letter does not represent a view from smaller suppliers.

Support for the Code Administration Code of Practice

The development of the Code Administration Code of Practice (CACoP) is a welcome, and necessary, component of the proposals put forward by Ofgem to reduce the unnecessarily complex and fragmented nature of existing code governance. At the earliest opportunity it should be applied to all industry governance codes to ensure a common approach to change is introduced.

The decision by Ofgem to bolster the CACoP's effect through the introduction of licence conditions is also a positive step, as it would be a poor return on the amount of analysis and debate conducted to date if it was to remain on a purely voluntary footing.

The remaining comments have been ordered in response to the questions set out in the consultation letter.

I. Do you agree with each of the principles listed in the CoP?

The fact that the CACoP states that it has been “established to facilitate convergence and transparency in code modification processes and to help protect the interests of small market participants and consumers through various means” is helpful, and correct. Arguments that the CACoP should not single out certain sections of the market for fear that it could be construed to offer favourable (and by implication unfair) bias to smaller market participants and consumers is weak. One of the main drivers behind the code governance review was to identify solutions that would facilitate engagement from the demand side and allow innovative market

¹ The Energy Supplier Forum is a Cornwall Energy hosted monthly meeting that brings together many of the smaller energy retailers in the market to discuss pertinent regulation and policy issues. More information here: <http://www.es-net.org.uk/>.

Heath Farm Cottage
Paston, North Walsham
Norfolk, NR28 0SQ

T: +44 (0)1692407865
F: +44 (0)870 706 3003
e-mail: info@cornwallenergy.com
www.cornwallenergy.com

Company Registration No: 5379768

governance improvements from new entrants and the competitive fringe. Enshrining this in licence conditions is also the right step.

The dozen CACoP principles are unambiguous, complementary, and (provided they are adhered to) should lead to the simplification of code governance modification processes. As the three main codes (BSC, CUSC and UNC) currently follow different processes the introduction of a harmonised change process will take some time for code administrators (CAs) and industry “regulars” to adapt to. This though should not provide an excuse for actual change to be unreasonably delayed, and it would be beneficial if CAs provide an educational seminar, workshop or other appropriate material to inform parties of the changes. CAs should be proactive in this respect.

2. Is the description of the change process in the CoP sufficiently detailed?

Yes, for the moment. Until the CACoP is officially introduced it is not possible to ascertain if the change process detailed in principle 4 is sufficient. It is correct though that a detailed and bureaucratic change process has not been suggested at this stage, as there is a danger that this could lead to a convoluted practice that would alienate the very constituency that the CACoP is trying to reach. But users suggesting CACoP amendments will undoubtedly want clarity regarding how their proposal will be progressed. Additional text in principle 4 of the CACoP could be inserted so that it is clear that users wishing to suggest change should contact a relevant CA to discuss it, and that this will be debated between all CAs and a prompt response on the next course of action given.

The primary factor when amending the CACoP is to ensure that the group developing the review consists of a balance of CAs, code users and appropriate non-code signatories. The CACoPs *raison d'être* should provide the basis for ensuring that all relevant parties are involved.

The effectiveness of the CACoP change process should be reviewed following its first review so that via iterative steps the CACoP remains fit for purpose.

3. Is there anything missing from the CoP that you feel should be covered?

The periodic review of the CACoP, as set out in principle 4, should highlight any omissions.

4. Do you agree that the CAs should be required to report on their KPIs?

Yes. It is imperative that the usefulness of the CACoP be measured. Without KPIs (or other review mechanisms) the initiative could become a “dead letter”, representing wasted resources during its development and potentially resulting in fewer benefits than envisaged.

5. Do you agree that those KPIs should be set out in the CoP?

Yes. This adheres to the principle of simplifying market governance by keeping all relevant material in one document. It will also give users an indication of how the CACoPs principles translate into actual improvements.

6. Should the results of the KPI reporting influence future revisions to the CoP?

Yes. Provided the KPIs are developed so that they provide meaningful information regarding how the CACoP is meeting its objectives.

7. Do you have any comments or suggestions on the proposed KPIs?

As the CACoP aims to simplify code governance change processes with a view to encourage greater participation from smaller participants and consumers then far more emphasis should be given to qualitative KPIs. It is the nature of the market that different participants will always have different needs and as such quantitative KPIs may miss these in some instances. Panels already conduct their own user surveys. To avoid “survey fatigue” CAs should aim to ensure that any questions asked in their own surveys are not repeated in a CACoP user survey. CAs should also be fully prepared to accept and record ad-hoc feedback (via a dedicated

contact, email address or web based comment page) on the CACoP, as smaller participants and consumers are not resourced to fully appreciate all the nuances of code governance—this will be particularly true of new entrants.

A set of KPIs should be agreed upon so that CAs and users can take confidence that the CACoP is a living document and will be improved to meet the needs of users. Prior to the first review KPIs with targets may not be beneficial as the implementation of the final code governance review proposals will result a period of time where CAs and users familiarise themselves with new procedures. All codes will have differing levels of change in order to harmonise them.

By collecting KPI information a baseline for improvements could be developed. As with all KPIs care needs to be taken to ensure that they do not introduce perverse incentives so that targets are met but service levels actually decline as a result.

I am happy to discuss these issues further.

Yours sincerely,

A handwritten signature in blue ink that reads "Nigel Cornwall". The signature is written in a cursive style and is positioned above a long, horizontal arrow pointing to the right.

Nigel Cornwall