MRA

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1st June 2012

Re: INDUSTRY CODE GOVERNANCE REVIEW – SECOND PHASE (OPEN LETTER)

Dear Declan

Thank you for your open letter dated 26th April 2012 and an extension to 1st June for MRASCO's response to the second phase of the Code Governance Review with respect to the MRA.

We recognise the importance attached to such a review, and as such support the aims set out in the consultation, especially where this leads to improving the transparency and accountability of code administrators. We have addressed Ofgem's specific questions within Appendix A, however we would like to make the following key points in response.

In 2010, MRASCo undertook a review of the MRA and its code administration practices, concluding that many of the important aspects associated with the code review work were already embraced under the MRA (see Appendix B). MRASCo concluded that the MRA was very well aligned with the Code Administration Code of Practice (CoP) principles and that no further alignment was required. Indeed, MRASCo believes there are certain aspects of the CoP that would act as a constraint on the efficient operation of the MRA. For example, alignment with a standard modification process (e.g. standard templates, process timescales etc) would undo all the good work that has recently been undertaken with respect to MRA change management practices and the MRA already embodies the 'critical friend' approach, as the code administrator's duties include helping MRA Parties to the Agreement to design and draft modifications.

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Furthermore, self governance lies at the heart of the MRA, including rights of appeal and reserved matters that Ofgem must decide upon. Indeed, the MRA (and its governance) is often held up as a good model to follow when being compared with other codes and relies heavily on self governance principles. This in part reflects the fact that the MRA is overseen by an Executive Committee (MEC) appointed by MRA members and a MRASCo Board of Directors to ensure sound financial management practices are maintained. The process for appointing the MEC Chairman is a straightforward and transparent process voted upon annually by the MRA membership.

Consequently, MRASCo believes that changes flowing from the Code Governance Review could have limited (if any) benefits. Rather, there is a risk that changes may impinge upon the efficient and effective governance practices that have been honed by Parties to the MRA over many years of operation. Indeed, during 2011, MRASCo undertook a review of its change management practices leading to a number of changes, including a better balance between allowing time for impact assessments versus unduly frustrating the pace of change.

It should also be noted that, whilst the MRA has not been directly caught by the CGR activity, nonetheless, with respect to urgent code modifications, MEC sharpened its reference to changes being progressed *"with due regard to Ofgem's Code Modification Urgency Criteria"*. This change was implemented to the MRA on the 1st October 2011.

The above are examples of MRASCo's continuous improvement philosophy with regard to the MRA. MEC therefore believes that its practices are proportionate to the nature of the MRA, enabling full participation by its members, ensuring non-discriminatory and unbiased practices, with change management procedures that empower any MRA Party to ultimately appeal decisions to Ofgem. MRASCo does not therefore believe that further change is warranted at this stage but would willing participate voluntarily to ensure that MRA practices were refined as was considered appropriate with regard to its efficient and effective operation.

Please do not hesitate to contact us with any questions and we look forward to engaging further with you to discuss any further measures that you believe are appropriate with regard the MRA.

Yours sincerely,

Yours sincerely

Alex Travell

Chairman, MRA Executive Committee

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Appendix to MRASCo letter 1ˢᵗ June 2012

> Has the requirement on code panels to provide rationale for their recommendations been effective in improving analysis to support code changes?

- MRA Changes follow a rigorous change management process. This includes a multi stage process and impact assessments. MRASCo has recently undertaken a comprehensive change management review exercise (in 2011). This led to a number of changes, including the redesign of change documentation and further time for industry impact assessments. That said, MRASCo would be happy to explain the revised process to Ofgem and, where necessary and appropriate, to make any adjustments that could further improve its change management practices.

> Has the concept of 'critical friend' been effectively embraced by the Code Administrators (i.e. an obligation to assist interested parties, particularly smaller participants/new entrants and consumer groups)?

- The MRA already supports the role of 'critical friend', and as such will always endeavour to assist its Parties in the development of changes to the MRA or its products, by means of help with drafting, clarification of processes and informal review of draft change proposals.
- Clearly defined Issue and Change Processes exist as MRA Products, such that all changes raised are discussed and considered by appropriate groups. Small Suppliers and Independent Distribution Network Operators (IDNOs) have specific representation on relevant bodies such that their interests are represented alongside those of larger organisations.
- The MRA also ensures that, where relevant, other codes and agreements are consulted to highlight cross-code dependencies and impacts which might result from any changes raised by Parties. Further to this, the MRA seeks to provide representation at relevant meetings of other codes and agreements.
- MEC has found the role of 'critical friend' to be very useful in assisting all MRA Parties and based on this experience therefore fully endorses this Principle. (*MRA response 12.05.10*)

> Do you support the Code Administration Code of Practice being implemented under all industry codes, to aid convergence and transparency in code governance processes?

- MEC agrees that guidelines for the administration of codes and agreements in the industry are a positive step forward, but believes it is essential to maintain a balance between protecting the interests of consumers and those of the participants in the various codes and the pragmatic operation of same.

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- MEC believes that the model adopted by the MRA achieves this balance, provides accountability and transparency, and is indeed closely aligned to the proposed CA CoP. For these reasons, we believe that rather than mandating the Code Administration Code of Practice to all industry codes and thus enforcing a one size fits all approach, it would be more appropriate for the MRA to be a voluntary member, thereby sharing best practice.
- As a last resort MEC could accept if the CACoP was to be introduced for all codes under a "comply or explain" approach. We would be happy to provide any assistance to Ofgem and/or CAs in the further development of this issue.

Is the self governance criteria introduced by the CGR appropriate and has the implementation of self governance been effectively achieved in BSC, CUSC and UNC?

- The MRA already has a high degree of self governance which has been very effective.
- With respect to other codes caught by the CGR, this is not an area that MEC can comment upon.

Do you consider that introducing or increasing self governance in the codes would be beneficial?

- The MRA is effectively already self-governing. We believe that the low level of issues previously escalated to Ofgem on appeal suggests that the industry is dedicated to creating solutions that are beneficial for the wider market and as such we already adhere to principles laid out by Ofgem.
- We therefore agree with Ofgem that any modification proposal which would be unlikely to have material impacts on, for example, consumers, competition or sustainable development, will deliver significant efficiencies to the code governance arrangements if it is managed through self-governing processes. We actively encourage Ofgem to support increasing levels of self-governance in the codes based on the principles set out.

Has the SCR process met with your expectations thus far, in terms of frequency of SCRs, timings and process?

- Ofgem's consideration of widening its remit to include all applicable codes within a significant code review (SCR) is not of particular concern to MRASCo; however, we note that with regard to the MRA, this will probably require a change to the distribution licence.
- MEC has not had any expectations with regard to the frequency of SCRs, timings or process.

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> Do you consider that Ofgem's guidance in respect of SCRs has been sufficiently clear and detailed?

- MEC considers the guidance in respect of SCRs published by Ofgem have been clear and detailed, but they would benefit from a summary view cross-referencing the various sections. Furthermore, MEC would appreciate additional information on the benefits and dis-benefits of the approach (including any additional costs/savings) that have arisen to-date for the BSC, CUSC and UNC. MEC believes this information is important to help inform on the best approach for other codes including the MRA.

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APPENDIX B – MRA Impact Assesssment

Principle	MEC Position	MRA ALREADY ALIGNED?
1. Code Administrators will be critical friends.	MEC has found the role of critical friend to be very useful in assisting all MRA Parties.	**YES**
2. Documentation published by Code Administrators will be in clear English.	MEC would welcome the establishment of a cross-code group to provide an agreed and consistent glossary of industry terms.	**In Part**
3. Information will be promptly and publicly available to users.	MEC actively seeks feedback from users of its Products and website	**YES**
4. This Code of Practice will be reviewed periodically and subject to amendment by users.	MEC would prefer the amendment process to include input from other industry representatives with relevant experience of codes and agreements such as the MRA.	**N/A**
5. Code Administrators will support processes which enable users to access a 'pre-Modification' process to discuss and develop Modifications.	There are already robust MRA processes relating to issues and change assessment.	**YES**
6. A proposer of a Modification will retain ownership of the detail of their solution.	The proposer of a change should retain ownership of that change.	**YES**
7. Code Administrators will facilitate alternative solutions to issues being developed to the same degree as an original solution.	The use of the Issue Resolution Expert Group (IREG), the SPF, and input from MRASCo's service provider help to ensure that any practical alternatives are fully considered.	**YES**
8. Implementation cost estimates will be produced and consulted upon prior to a Modification being recommended for approval.	It may be appropriate to agree the desired change in principle and then obtain IT costs prior to a final decision being made on progression.	**YES**
9. Legal text will be produced and consulted upon prior to a Modification being recommended for approval.	Legal Text should be required only where this is appropriate (e.g. for DTC changes it may not be appropriate).	**In Part**
10. Modifications will be consulted upon, be easily accessible to users and allowing proportionate time for responses.	Consultations will be open to all, not just direct code users.	**In Part – the MRA does not adopt a common process with other codes.**
11. There will be flexibility for implementation, to allow proportionate delivery time and realisation of benefits.	The MRA-defined change process ensures that all aspects of the impact of changes are fully considered. However, the Authority cannot instruct a modification to take place	**In Part**
12. The Code Administrators will annually report on Key Performance Indicators (KPIs).	MEC is not entirely aligned with the view that common KPIs across all codes are a workable solution	**No**