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Dear Lisa,

**Code Governance Review (Phase 2) Proposals - iGT UNC Modification Panel response**

**Introduction**

The iGT UNC Modification Panel welcomes the opportunity to provide views on the Code Governance Review (Phase 2) Proposals. A number of Panel members will also be responding to the consultation from the point of view of their individual organisations.

Overall the Panel agree that a consistent approach by all Codes is helpful for parties who operate across the industry and also for Ofgem if information is provided in a consistent manner. Consistency with the UNC is particularly important as there are occasions when equivalent changes are required to be made to both Codes, e.g. the recent changes to the Customer Registration processes to support a maximum 21 day switching period.

When the iGT UNC was formed it was based on the current available best practice, that being seen as the UNC. Since then the iGT UNC has completed one full review of the Modification Rules which resulted in improvements being made as well as introducing the Ancillary Document concept, which allows the iGT UNC to make limited changes to some industry processes without having to involve Ofgem. Currently a further iGT party initiated review (iGT046) is well under way which is looking at those UNC changes introduced through the first Code Governance Review which are felt to be significant enough to justify amending the iGT UNC to continue to be aligned and to ensure best practice is maintained.

The following points have been made in consideration of both written feedback to enquiries made by the iGT UNC Representative together with discussions at the iGT UNC Panel meetings on the 17th October and 21st November 2012. Overall, members felt that in general, whilst a lot of what is being proposed falls into the “nice to have” category and there are benefits from some of the proposals (in particular, self governance for minor changes), they have yet to see evidence that there is a systematic failure in the iGT UNC change process that needs to be addressed.

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## Self Governance

There was widespread support for an improved ability to manage “fast track” changes. However the support for full self governance without a User Pays concept was not unanimous as some parties felt that there would be little general consensus where changes were put forward that only benefited a subset of iGT UNC parties but all parties would incur costs in implementing the change.

Should self governance be introduced, there was full support for the introduction of an appeals process and that this should be operated in a similar manner across all codes. There was also support for the appeal window starting from the publication date but also an expectation that Ofgem should be required to adhere to a formal timetable for decision making. Clear criteria by which the Panel can judge a self governance statement would be required in the administration of the Code with the governance such that any changes to the criteria would need Authority approval.

## Significant Code Reviews

Where this was commented on, Panel members queried how the requirement for there to be the potential for significant industry impact of an SCR, such that a maximum of only 2 or 3 would be anticipated at any one time, could affect areas managed under the iGT UNC. Thus from a Code perspective, the point made was whether it was efficient to introduce elements that in practice will rarely, if ever, be invoked, purely for the sake of consistency.

## Code Administration

Again views were mixed on whether adherence to the Code Administrator Code of Practice (CACOP) needed to be made mandatory for the iGT UNC or whether the current voluntary approach was sufficient. Parties recognised the benefits of a consistent approach across all Codes. The use of Templates was supported and it was recognised that the ones currently used by the iGT UNC may benefit from closer alignment with those used by the UNC, in those areas that are relevant to the iGT UNC, rather than mandatory adherence to a single Template for all the Codes. Panel members also recognised that the current voluntary compliance with the CACOP was successful. A concern was raised that not all areas of the CACOP were relevant to the iGT UNC, such as principle 8, which highlighted that universal compliance with a single CACOP across all the Codes may not be achievable.

## Critical Friend

Panel members were not consistent on a need to formalise the role of the “Critical Friend”. Some commented that this was already successfully operated by the current Representative; some believed mandating the role would aid new entrants to the market and promote the involvement of smaller participants. One party believed that it was wrong to place the requirement in the licence to which the Code Administrator was not a party. This could potentially introduce further complexity to monitor whether the Code Administrator was compliant and may specifically require formalisation if a new service

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provider was sought, recognising that this would be one element of any tendering process to select the replacement. A concern was raised about the risk that provision of a “Critical Friend” role may affect the impartiality of the Representative. From a Representative perspective, it is difficult to fully demonstrate that at all times the Critical Friend approach is being successfully operated when, despite numerous attempts to involve smaller parties and consumers, there is no take up from these parties. There is also the potential for additional cost to be incurred without any improvement in the overall quality delivered by the modification process.

### **Send Back**

The Panel members recognised that Ofgem should not be required to make a decision when they considered the information presented was inadequate or contradictory. They were supportive of the need for a “Send Back” facility, if this allowed work on a current modification proposal to continue rather than rejecting the proposal and the industry then having to start the process all over again.

### **Other points**

It was suggested that the current Panel format may need to change to ensure full representation of all parties both large and small, particularly for self governance changes. In practice however, whilst particularly smaller parties and consumers have been encouraged to be more active in the Code processes, there has been no take up of this.

Parties recognised that the proposed changes could increase the cost of running the Representative function which is funded solely by the iGTs. Parties also recognised that there is a lot of other change activity currently being progressed in the iGT UNC, including the move towards a Single Service Provider and the requirement to provide registration data to the DCC (and potentially other changes to facilitate the introduction of Smart Metering), all of which may require Code, Licence or Governance changes. Mandating additional changes that could be achieved on a voluntary basis may therefore be an unnecessary complexity at this time.

It was also suggested that the pre-modification process could be managed via a change to the terms of reference for the Standing workgroup and/or by introducing an additional item on the Panel agenda.

Whilst the current iGT UNC process already includes an opportunity to determine in detail how a particular modification proposal supports the required licence objectives as well as other associated benefits, in practice the extent to which this is provided is a function not just of the Code Governance but more significantly, of the amount of time parties wish to invest in assessing proposed changes.

Yours sincerely

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