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21 November 2012

Dear Lisa,

## **Code Governance Review (Phase 2) Proposals**

Thank you for the opportunity to respond to your proposals. The Joint Office of Gas Transporters (JO) is supportive of measures that assist code users in understanding and participating in code modification processes and, in this context, welcomes any proposals that deliver this for Uniform Network Code (UNC) users. We would, however, counsel against including within licences details regarding how processes should operate – such detail is both more appropriate, and easier to develop over time, if incorporated within code modification rules.

Our views on the questions posed in the proposals document are as follows.

### **CHAPTER: Two**

**Question 1:** *Do you consider that a ‘fast track’ self governance process should be available in the industry codes for minor housekeeping changes?*

Yes. It is inefficient for all code changes to follow the full modification process. Housekeeping changes, for example, are not controversial and it would save industry time and effort if modification panels had the authority to approve such changes on behalf of the industry.

**Question 2:** *Do you agree that the Agency Charging Statement should fall under the governance of the Uniform Network Code, rather than the Gas Transporter licence?*

It is unsatisfactory when change is subject to two separate governance processes. The key benefit that we would envisage from bringing the Agency Charging Statement (ACS) within the UNC would, therefore, be that approval of a UNC modification would include specific approval of any supporting ACS change, thereby avoiding the possibility of inconsistency through approval of a UNC change but a veto of the supporting ACS change.

**Question 3:** *Do you agree that self governance should be introduced into the iGT UNC and STC, and increased in the DCUSA?*

Not an issue for the JO.

**Question 4:** *Do you consider it appropriate to apply the same governance principles to the Grid and Distribution Codes as are applied to the commercial codes?*

Not an issue for the JO.

**Question 5:** *Do you consider that both the Distribution Code and the Grid Code should be modified to allow for an open governance framework? In particular, allowing code users to raise code modifications; enabling code panels to have a more formal role in evaluating and recommending code changes; and the governance procedures brought into the codes? Are there any other areas of governance that you consider could be improved in Distribution Code and Grid Code?*

Not an issue for the JO.

**Question 6:** *Should MRA modifications be subject to a materiality test, to determine whether Authority approval of changes is required?*

Not an issue for the JO.

**Question 7:** *Do you consider that it is appropriate to obligate non-domestic gas suppliers to accede to the SPAA?*

Not an issue for the JO.

**Question 8:** *Do you agree that SPAA modifications should be subject to a materiality test, to determine whether Authority approval of changes is required?*

Not an issue for the JO.

**Question 9:** *Do you have any comments on Ofgem's guidance for discharging self governance appeals (Appendix 7), and on the proposed adjustment to the BSC, CUSC and UNC appeal windows?*

We are surprised by the proposal to change the appeal window for self governance decisions from 15 working days 'from decision' to instead begin 'from publication'. We are not aware that any code user has raised this as a concern, but note that the proposals document suggests this has been raised in light of feedback from code administrators. While the proposals document argues that the advantage of the change would be to ensure that all parties have the benefit of the published final modification report and reasons for the panel decision from the outset of the appeal window, we note that this would only be the case if the report is not published on the same day as the decision.

In the case of the UNC, the JO has adopted working practices that seek to ensure that these dates coincide, with all self-governance final modification

reports published on the day of the relevant modification panel meeting.

If there is a desire to ensure that all parties have the benefit of the published final modification report and reasons for the panel decision from the outset of the appeal window, we would suggest that it would be more appropriate to amend code administrator working practices (by changing the modification rules if necessary) in order to remove any delay in the publication of the required information. To move the start of the appeal window to a, potentially delayed, publication date would seem to create an advantage for those who attend panel meetings and so have access to the information before other parties.

**Question 10:** *Do you consider that the ability to appeal a self governance determination should be consistent across all codes?*

Not an issue for the JO.

### **CHAPTER: Three**

**Question 1:** *Do you agree with the proposal to extend the Significant Code Review process to DCUSA, iGT UNC, MRA, SPAA, STC, Grid Code and Distribution Code?*

Not an issue for the JO.

### **CHAPTER: Four**

**Question 1:** *Do you agree that all industry code panels (or their equivalent) should provide substantive reasons for their recommendations/decisions?*

Not an issue for the JO.

**Question 2:** *Do you agree that the MRA should contain objectives against which code modifications are assessed?*

Not an issue for the JO.

**Question 3:** *Do you agree that the Authority should be able to 'send back' final modification reports in all codes, where a deficiency/flaw in the report is identified?*

Not an issue for the JO.

**Question 4:** *Do you agree with the proposal to require all codes to have regard to and, to the extent relevant, be consistent with the CACoP principles?*

Not an issue for the JO.

**Question 5:** *Do you consider that a requirement on code administrators to fulfill a 'critical friend' role should be set out in the relevant licence?*

Not an issue for the JO.

**Question 6:** *Do you agree with the amendments to the CACoP (Appendix 2) and do you consider that the standard process and templates described by the CACoP should have the status of guidance (rather than being mandatory) at this stage?*

We are happy to be guided by code users regarding the contents of the CACoP. However, given the stated ambition of delivering convergence in modification processes, we would have expected compliance with the standard processes and templates to be strengthened rather than weakened. Unless a standard process is defined and followed, it is difficult to see how convergence of modification processes will be delivered.

## **CHAPTER: Five**

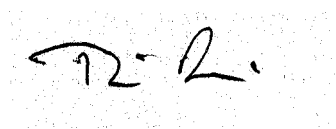
**Question 1:** *Do you agree with the timetable proposed?*

Best practice would suggest that code modifications to implement licence changes should only be progressed once those licence changes have been finalised. The timetable does not appear to allow sufficient time *after* licences have been changed for these modifications to be progressed in accordance with the principles and standard timeframes set out in the CACoP.

In the case of the UNC, we believe that the timetable for moving ACS governance into the UNC may prove unachievable. This is firstly because a range of issues remain to be resolved regarding the implications for non-code user pays services and, secondly, because the revenue year runs from April to April – in practical terms, implementation other than on 01 April may create difficulties.

We hope that this response is helpful and look forward to working with the industry towards implementing the final proposals. We will also be writing separately with some observations on the proposed GT licence drafting.

Yours sincerely,



Tim Davis

Chief Executive