

Cornwall Energy
2 Millennium Plain
Bethel Street
Norwich
NR2 1TF

Code Governance Remedies
Ofgem, 9 Millbank
London
SW1P 3GE

13 January 2017

Dear Laura

Code Governance Consultation

Thank you for the opportunity to set out our thoughts on your proposed changes to the code governance regime.

As you know, code governance reform has been a long-term interest of mine and I welcome this focus on this issue from Ofgem. I broadly agree with CMA's conclusions regarding a code governance AEC; it is apparent that the nature of current code governance arrangements and the level of control established players have over this process is having a detrimental impact on the market. Given the ever-increasing pace and breadth of change required to meet the challenges of the coming years, governance reform is long overdue.

At the recent stakeholder event I was encouraged to see the level of enthusiasm in the industry for governance reform and especially the positive feeling for radical reform. It is my view that Ofgem's proposals are a step in the right direction, but more could and indeed must be done.

My proposal has four core tenants: to establish a single code administrator which would own all the codes; to expand the role of 'critical friend'; to standardise workgroup and modification reports and include more impact analysis; and to provide a route for those outside the established players to raise and influence modification proposals.

All this is based on a strategic direction being set for the industry. The Strategy and Policy Statement (SPS) was a welcome move to provide more clarity on the government's position and views on energy policy. It would have provided overarching principles and could have been immensely valuable as a signal to Ofgem and the industry, informing, for example, Ofgem's Forward Work Programme.



Unfortunately, after the draft version of was published in August 2014, the SPS has not be referred to again. Despite an ongoing legislative requirement for the document and for Ofgem to take account of it, no final version or revised draft as appeared as-yet. This leaves the Forward Work Programme unanchored in terms of government policy and a lack of clarity on what that policy consists of.

Resurrecting the SPS would go a long way towards helping the development of Ofgem's strategic direction, irrespective of your view of my other proposals.

I expand on my other suggestions below.

A combined code administrator would be a single body employing individuals with a deep understanding of all industry codes, and with the capability to deliver broad change without needing direct and constant intervention from Ofgem. The establishment of a single office where code experts worked together would spread cross-code understanding. The creation of a single administrator would largely obviate the need for a consultative board by acting as a design authority and coordinator to drive cross-code change according to Ofgem's strategic direction.

This proposal also has the benefit of not requiring new primary legislation to enact. Licensing code administrators seems little more than changing their name and acquiring a 'bigger stick' to encourage more cooperation, whereas code governance needs a transformational change and the industry cannot afford to waste this opportunity to make it.

The code administrator's current role of critical friend to modification proposers should be expanded to include ownership of workgroup and modification reports and recommendations. A body is required which will own and defend recommendation; as the code administrator makes recommendations it is only logical that it should defend them.

Every code has a different process, timescales and standards for modification proposals and reporting. The Code Administrators Code of Practice should be used to enforce standardisation. If modification processes were all the same, the resource required to become involved in the process would be reduced, benefiting new entrants and consumer bodies where resource is particularly limited.

We heard from Citizen's Advice at the stakeholder event regarding the prohibitive cost of merely attending code Panel meetings – to engage with workgroups as well is beyond the reach of smaller parties, including consumer bodies. Simpler and more consistent reports, with more in depth and broader impact assessments, would alleviate this.

Impact assessments should examine more than the impact on code's stated objectives. Impacts on new entrants, consumers, established players and any other parties must be reviewed to create a holistic picture of the true effect on all market participants.

Loosening the rules on parties eligible to raise modifications would give a route in for less-established players, including consumer groups. Currently, consumer groups would need to persuade an industry body to raise a modification on their behalf, which is a further barrier to increased involvement in code governance.



With regards to the consultative board, I regard the notion of a consultative board as an oxymoron: boards have duties and need powers to fulfil them. Should a board be established, I would like to see it take a stronger approach and take on the role of directing modifications as required.

If we are not going to see a single code administrator, then the transitional pathway to the final solution should be as short as possible. While I appreciate the reasons for staggering licence implementation, I would recommend moving as fast as possible to the end goal, in order to avoid the risk of diluting the potential benefits of the new system.

I look forward to reading the results of this consultation and encourage Ofgem to focus on establishing a clear end goal of governance reform before getting bogged down immediately in the minutia of the necessary mechanisms.

Yours faithfully,

Nigel Cornwall
Cornwall

