29 July 2019

Dear Rachel,

Switching Programme and Retail Code Consolidation: proposed changes to licences and industry codes (Part 1)

Citizens Advice prepared this submission. Citizens Advice has statutory responsibilities to represent the interests of energy consumers in Great Britain. This document is entirely non-confidential and may be published on your website. If you would like to discuss any matter raised in more detail, please do not hesitate to get in contact.

We welcome the opportunity to respond to this consultation on the Retail Energy Code (REC), its schedules, and the licence changes required to deliver faster, more reliable switching and Retail Code Consolidation.

Citizens Advice strongly welcomes the intent behind the switching programme and the desired goal of faster, more reliable switching. Local Citizens Advice dealt with 5,618 issues in 2018-19 relating to switching supplier and sales issues, a 78% year-on-year rise. Over the same period, our dedicated Consumer Service phoneline helped with 3,586 energy switching transfer issues.

The volume of switching should not be seen as the sole proxy for effective competition or market health. However, when people choose to change suppliers, it should be effortless and predictable in outcome.

As the statutory consumer advocate, we attend a number of codes, and in some of these we are also able to raise changes and vote. We welcome Ofgem's plans for a consumer-focused REC, with a strong role for consumer representatives and more scope for the involvement of other affected stakeholders.

As suggested in the consultation document, our response takes the form of two parts. The first focused on the REC Manager role and the governance of MPAS, and the second will address the questions raised in relation to the other areas of governance under consultation.

Yours sincerely,

Tom Crisp

Senior Policy Researcher

1.3 Do you consider that the methodology as set out above is appropriate?

We recognise and appreciate that a more specific scope to the requirements of any REC Manager(s) role is required to initiate procurement and the desire to do so as swiftly as possible. However, we would welcome more detail on how the procurement will be completed in a manner that aligns with the joint Ofgem/BEIS code review, now that this has recently published its initial consultation, including the option of a single code manager for all industry codes, and the creation of a new strategic codes body.[1]

We have expressed our support previously for the empowered Manager function to drive change and achievement of the Code objectives in an efficient and timely manner. However, we also think it is essential that parties have a role, and for all Manager decisions to be made transparently and against clear guidelines and objectives.

The expectations on service providers are comprehensive, and the intent to enable potential service providers to offer flexible, innovative services is welcome. However, it will be important to strike the right balance in approach for weighting of

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[1] BEIS (2019) Reforming the energy industry codes

the methodology. We would argue, for example, that removing barriers to change and market development should not be regarded as more important than ensuring a consumer-centric approach to code development, given the consumer-facing nature of the code itself.

1.4 Do you have any comments on the scope of services?

As a whole, the list of services a REC Manager would be expected to carry out is in line with our expectations.

Regarding the Code Change Management Service, we have previously stated that the Manager's decisions when prioritising modifications could require Board ratification, or an appeals mechanism, in order to give confidence to parties and other stakeholders.

In a consolidated REC, which oversees a diverse range of aspects, including metering codes of practice, theft prevention arrangements and Green Deal, as well as its 'core' business related to switching arrangements, there could be a risk (or the perception of a risk) that non-core aspects are more likely to be deprioritised. Furthermore, there may be cases where the affected stakeholders are not code parties (for example, meter operators). It may be necessary to provide a clear route for these stakeholders to challenge Manager decision-making, where they disagree.

The importance of the stakeholder engagement function is key in our view. It is important that when the REC Manager(s) is procured, stakeholders feel they are being engaged at the right level and at a volume at which they are able to comprehend changes and respond effectively where necessary. Smaller parties, such as small energy suppliers with less bandwidth in regulatory functions should be aided in knowing when to prioritise engagement.

An area of potential concern could be that if the REC Manager functions are delivered by multiple organisations, a silo effect may become apparent where different aspects of services are delivered without regard to the wider objectives and not coordinated in a holistic manner. We look forward to gaining a greater understanding of the Code Manager services requirements, pending development by the RECCo board.

1.5 Do you agree with our outline proposals on the set-up of the REC Manager?

The early set-up of the REC Manager is one that we regard as being a sensible approach. It is also practical to be open to the potential that RECCo may also be able to provide some functions in-house, depending on what is most effective and efficient.

The contingency at the end of the contract signature/mobilisation phase is welcome, recognising the potential for slippage in the plans and the importance of allowances for this.

The delegation of certain elements of oversight to the PAB is a move we would support. We have voiced support previously for an empowered PAB that has strong sanctions available, and is appropriately resourced to properly monitor the performance of parties and service providers.

However, given the current plan for the establishment of the PAB in early April, in the midst of REC Manager mobilisation phase, this may not be practical at an early stage.

4.3 Which option outlined above do you think is best suited to govern MPAS (as defined above) once the MRA has closed, and why?

As identified by Ofgem, some of the key considerations for governance of MPAS going forwards are:

- The quality of governance

Patron HRH The Princess Royal   **Chief Executive Gillian Guy**

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Registered office: 3rd Floor North, 200 Aldersgate Street, London EC1A 4HD

- The ability of affected parties, particularly DNOs, to have meaningful influence over the provisions
- That given the cross-cutting nature of the MPAS, that any governance arrangements will need to be able to work across codes

The solution offered by incorporating MPAS governance into the REC would appear in our view to offer the right balance of meeting these objectives. The REC being designed as a 'best in class' model of governance would, in principle, deliver the highest quality of oversight available over the service. As stated, DNOs will have representation on the REC as parties and will be consulted as part of any change process. Finally, given the role of the REC Manager in driving cross-code co-ordination, this appears to be a natural synergy. Industry surveys in relation to code administration have identified cross code working by the current administrators as slow and lacking cohesion by comparison.[2]

We also recognise that no suggested solution is ideal, and are mindful of the intent that the REC is by nature, a primarily retail-facing code. While splitting the remaining governance areas between the respective codes would allow the code most reliant on each data item to be responsible for its governance, it would also in our view run contrary to the broader move towards harmonisation and simplification of code governance.

However, this is in the context of broader planned code reform and potential consolidation, so any solution may well be time-limited in its nature. The proposals set out in the recent joint BEIS/Ofgem code review paper could reduce some of the risks of splitting MPAS governance across codes, if a single code manager function is used. Similarly, code consolidation to a single code would ultimately render issues around MPAS moot.

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[2] Ofgem (2018) Code Administrators' Performance Survey Findings

4.4 Do you have serious concerns about the suitability of any of the options for the future governance of MPAS, outlined above?

We do not have serious reservations about any of the indicated options and think on the evidence provided, they could all deliver a satisfactory level of governance of MPAS. However, moving governance to the BSC or DCUSA would be dependent on a level of cross-code co-ordination that is currently less common for those codes in the existing model.

We think this reinforces the case for a preference for the REC to lead governance in this area, given the strategic cross-code mandate.