

9th September 2019

Rachel Clark

Switching Programme Director, Consumers & Markets
Ofgem
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Canary Wharf
London, E14 4PU

Dear Rachel,

Switching Programme and Retail Code Consolidation: Proposed changes to licences and industry codes.

This is the second part of our response to the Retail Energy Code and code consolidation and gives our thoughts on the remaining questions not previously covered in our first submission in July.

There has been considerable work undertaken in getting the REC schedules to this point of their development. We have suggested amendments to most of these and, in particular, to the Consumer Facing Switching and Billing Problems Schedule. We hope these amendments are useful in the development of a final draft.

It is important that consumer outcomes remain at the forefront of the REC. To help facilitate this, the REC should play the pivotal role in governing all the retail arrangements that impact the consumer. In addition, we should be careful not to fragment arrangements across other codes and agreements, to the detriment of the consumer.

We are conscious that this consultation comes at a time when the RECCo Board is pushing forward with their procurement of services for the REC and where BEIS/Ofgem is also looking at the wider landscape of Codes. Whichever route the RECC takes, it should not move in a direction that is contrary. Otherwise, there is an increased risk of more work and a need for further investment in the near future.

As always, if you have any queries or require clarification on any aspect of either of our responses, I would be very happy discuss this with you further. We would be more than happy to meet with Ofgem and the RECCo Board to discuss any of the points raised or improved drafting that we have suggested.

Glenn Sheern

Head of Governance Design, Gemserv



ANNEX

Question 1.1: Do you agree that the mission statement and objectives encapsulate the functions of the code, can drive activity of the governance functions and assist decision-making on changes to codes?

The proposed mission statement and objectives are a move in a positive direction for both the consumer and parties to the code. It goes some way to providing clarity and function of the code and may also prove some assistance in the decision-making process. However, we believe we could be more transparent in what the consumer and parties can expect from the Code. We suggest Charters for both consumers and parties that could accompany the mission statement and objectives. The Charters would explain the scope and deliverables of the code and by which the effectiveness of the code functions can be assessed.

Question 1.2: Do you agree with our proposals on the initial and ongoing appointment of RECCo Board Members?

We agree that the appointment of initial RECCo Board members followed a pragmatic process. However, a confirmatory consultation/election would have added greater transparency. The Table requirements set out in Table 1 is useful for determining the suitability of RECCo Board members and it would be useful for Ofgem to publish the current interim Board members and the mapping of the constituent and functional expertise contained here to the Board members both to allow consumers and parties to understand the responsibility and to help identify potential gaps in requirements.

It is important that there is a degree of independence in the enduring RECCo Board rather than the interim structure which relies on employees of current Parties to the Code who also have day jobs. To gain this level of competence, independence and accountability it is important that the remuneration of directors is considered carefully and included in the budget for 2020 and beyond.

Question 1.6: Do you agree with our proposals on the set-up of the REC Change Panel? Do you foresee any problems with these proposals?

We are in broad agreement with the proposals. However, consideration should also be given to how the Change Panel members can be removed by either consumers or constituents should they make decisions that do not consider consumer and party interests or frustrate the ability of the Panel to act quickly and reach decision without undue delay.



Question 1.7: Do you agree with our proposals on the set-up of the PAB? Do you foresee any problems with these proposals?

We are fully supportive of the need to have a proper and proportionate performance assurance framework, by which to monitor and incentivise the efficient workings of the Code and to enable a positive consumer experience. We would also see that, in a modern and innovative digital industry, the methods by which performance is measured and assured is not focused on obsolete thinking and entrenched positions. It is not unreasonable to consider the current drafting of the REC to be very much based on outdated thinking. In fact, the Code seems to be largely copied from the BSC which is focused on the settlement regime and not on the more innovative retail market. We should not underestimate how different these markets are.

The timing of the establishment of the PAB is well argued in the consultation and we agree that no time should be lost in setting it up. We should have suitable experience represented from retail markets, with backgrounds from both energy and from emerging and innovative markets. In order for the PAF and the PAB to deliver the desired outcomes for both consumers and parties in an efficient and cost effective manner access to both industry data and consumer feedback needs to be readily available and not hindered by costly interfaces and processes that can be hindered by those with incumbent positions.

Utilising the best performers within the PAB membership is a position worth exploring more once the framework is established and performance can be measured. However, we should however not let these appointments stifle innovation, as Parties and code processes modernise and require all parties to change and adapt to modern fast-paced technologies.

Question 1.8: Do you agree that the inclusion of the principles outlined (as included in the draft change management schedule) should address some or all of the problems associated with existing code governance? Do You Consider that the methodology as set out above is appropriate?

Firstly, we can see that there is an improvement in the language used within the schedule and that a “plain English” approach is preferential. However, the detail still seems to involve a change process that is still complex and not as easy to understand for new entrants and consumers as it could be. We therefore believe this schedule does go some way to addressing the criticisms that have been made of current change processes but not all of them. We believe there should be some independent research into the most efficient, cost effective and inclusive change process that exists today and that this then should be used as the starting point for the “best in class process and the blueprint for all codes. Models for the recovery of costs differ across the current code landscape and there have been some strong opinions aired as to the desired model to be followed. We believe that an independent assessment would highlight areas of inefficiency and therefore ways



to provide value for money services. We have provided in Appendix 1 some more detailed comments on this schedule.

Question 2.1: Do you agree with our proposed choreography of the Retail Code Consolidation SCR, switching programme and associated licence changes, including our proposals that the switching programme changes will be introduced as “dormant” before being made “active” following Authority decision?

We believe this is a pragmatic approach that will allow all parties surety of the obligations that will need to be met by all concerned. It is sensible that the changes remain “dormant” until an Authority decision, to ensure everything does work together. Past experience has shown that not all of industry can move at the same pace and this allows some leeway for those that are not ready for a hard start date.

We agree that there is likely to be a short period of time after 1 April 2021, where MRASCo and SPAA Ltd will need to exist. However, we do not see the benefits of moving these companies under control of RECCo to oversee their shutdowns. The company shut down is a legal process and not related to the code provisions that they govern. It does not seem appropriate to move this legal responsibility to another body. There is oversight from Board members that are common to both all companies which should be enough.

Question 2.2: Do you agree with the approach we have described for managing the delivery of the Switching Programme SCR and the Retail Code Consolidation SCR?

Yes, we are in broad agreement with this approach.

Question 2.3: Do you have any views on the draft consequential changes to industry codes and work plans described in Appendix 5 that would help deliver the Switching Programme and Retail Code Consolidation SCRs?

We are aware that there have been different approaches to this work from the different code bodies. Some have moved more quickly to have a clear, complete and transparent set of consequential changes which have progressed with input from industry stakeholders. It is therefore difficult at this stage, to evaluate if all the changes work together and include all the changes needed.

Question 3.1: Do you agree that the draft Registration Services Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

Please refer to Appendix 2 for our recommended improvements.



Question 3.2: Do you agree that the draft Address Management Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

Please refer to Appendix 3 for our recommended improvements.

Question 3.3: Do you agree that the draft Data Management Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

Please refer to Appendix 4 for our recommended improvements.

Question 3.4: Do you agree that the draft Service Management Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

Please refer to Appendix 5 for our recommended improvements.

Question 3.5: Do you agree that the draft Entry Assessment and Qualification Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

Please refer to Appendix 6 for our recommended improvements.

Question 3.6: Do you agree that the draft Resolution of Consumer Facing Switching and Billing Problems Schedule meets the Regulatory Design Principles? If not, please explain how the Schedule could be improved?

Please refer to Appendix 7 for our recommended improvements.

Question 3.7: Do you agree that we have adequately captured the requirements of the ETCC within the draft Resolution of Consumer Facing Switching and Billing Problems Schedule, taking account of the existence of Guaranteed Standards of Performance that cover engagement with the consumer and resolution of erroneous transfers?

Yes. We are in broad agreement, subject to our comments in Appendix 7.



Question 3.8: Do you believe there is merit in extending obligations relating to the resolution of Erroneous Switches, Crossed Meters, Switch Meter Read Problems and Duplicate Meter Points to micro-business consumers or should these requirements more generally apply to all Non-Domestic Energy Suppliers? For Switch Meter Read Problems, should the scope be extended to cover domestic and micro-business consumers who are settled on a Half-Hourly basis?

Our preference would be to have the same obligations regarding data quality and switching processes extending across the whole industry regardless of the fuel, type of consumer or settlement regime. This makes for a more efficient industry processes and makes processes easier to access for new entrants and innovative business models. Maintaining processes that artificially differ, exacerbates the problems that exist and makes administration more expensive.

Question 3.9: Do you agree with our proposal to introduce a harmonise procedure for escalating delayed and disputed problem resolutions for all problem areas covered by the draft Resolution of Consumer Facing Switching and Billing Problems Schedule? If not, please explain how the approach for escalations could be improved.

The Consumer Facing Switching and Billing problems Schedule of the Retail Energy Code introduces a new consolidated escalations procedure that can be used to resolve any Delayed or Disputed Resolution to a problem resolution detailed in the schedule. This includes a new option to escalate the issue to the Code Manager and the REC Performance Assurance Board (REC PAB) in the case that this is not resolved with the Associated Supplier's Operational Contact or Contract Manager.

We have concerns that, as the CFSB Schedule is drafted today, there is a lack of clarity on:

1. how the Code Manager will be expected to resolve an escalation;
2. what incentive an Energy Supplier has to resolve a problem both before and after an escalation to the Code Manager; and
3. how this will ultimately improve the Consumer experience.

If large volumes of Delayed Escalations are escalated to the Code Manager that remain unresolved, this could introduce a costly service to the industry that doesn't improve today's industry performance and Consumer experience.

We believe it is imperative that different levels of escalation are viewed with the appropriate level of urgency and priority, to ensure that problems impacting the accuracy of a Consumers bill, or their experience of switching, are resolved promptly and effectively. We do not believe this to be the case with the current



escalation processes, and are concerned that, if left as-is, the new escalation step to the Code Manager could result in a largely ineffective and costly “forwarding service”. We believe that appropriate incentives and consequences should be in place from the offset of this process, proportionate to the level of Consumer detriment incurred by a Delayed Resolution, so the new process drives the right behaviours to improve outcomes for Consumers.

We have included in Appendix 8 a possible way forward that gives more detail on how the process could be improved. (Please treat Appendix 8 as confidential at this stage)

Question 3.10: Do you agree that the draft Prepayment Arrangements Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

Please refer to Appendix 9 for our recommended improvements.

Question 3.11: Do you agree that the draft Related Metering Point Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

We have no comments on this schedule.

Question 3.12: Do you agree that the draft Data Access Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

Please refer to Appendix 10 for our recommended improvements.

Question 3.13: What changes would you make to best align the draft Data Access Schedule to the Energy Data Task Force recommendations?

We would suggest that close liaison with the Energy Data Task Force (EDTF) would be the best course of action. Whilst the current drafting of the Data Access Schedule goes in the right direction, it does not fully align with the principle recommendations laid out by the EDTF. We believe that the drafting would be improved using the members of the EDTF that are not concerned with maintaining incumbent positions or held back by traditional thinking.

Question 3.14: Do you agree that obligations should be placed on networks and suppliers to ensure that RECCo procures gas and electricity enquiry services and that obligations in the Gas Transporter and Distribution Licences can be removed?



We believe it is appropriate to remove the obligation from Gas Transporter and Distribution licences to procure gas and electricity enquiry services. The obligation should be upon Suppliers, as the parties that are solely funding the Code, to ensure RECCo or the Code Manager provide a dual fuel Enquiry Service. We believe this will provide best value for the consumer and for all market participants. It will also mean innovation in this space also is able to keep pace with an ever-changing landscape and not necessarily held back but the use of legacy systems and thinking that moves slowly and is held back by the slowest mover.

Question 3.15: Do you agree that the RECCo should be able to appoint either the Code Manager, Enquiry Service operator or a third party to act as the Enquiry Service Administrator for the purpose of monitoring compliance and managing Data Access Agreements?

RECCo or the Code Manger should be free to appoint whomever they feel fit is best placed to provide a modern, innovative and fast paced service and manage that service from day one. It is extremely important from the view of compliance and data access that a modern and consumer centric approach is adopted and one that is not held back by outmoded thinking and legacy interests.

Question 3.16: Do you agree that the draft Interpretations Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

We have no comments on this schedule.

Question 3.17: Are there any other areas that you think should be covered in the REC to support the Switching Programme, other than those that will be included in the Technical Specification?

Not at this time.

Question 3.18: Do you have any additional comments on the drafting of any of the schedules, in particular in relation to whether they effectively achieve the outcomes described her and articulated in Design Baseline 4 or other programme documents?

We have no additional comments.

Question 4.1: Do you agree that Ofgem should lead an end-to-end process to develop the code modifications to deliver retail code consolidation?

Yes, we believe Ofgem are best placed to lead the end-to-end process.



Question 4.2: Do you agree with the proposed scope of the Retail Code Consolidation SCR? Do you think any additional areas should be in scope?

The only missing area seems to be the message transmission services. The surety of these services is essential to the successful transition and maintenance of services and should come under the control of RECCo. This will ensure some of the problems we have seen during the implementation of consequential changes, do not persist and hinder the success of the programme objectives and adversely impact consumer experience of switching.

Question 4.5: Do you agree that the GDAA and Green Deal related provisions in the MRA should transfer to the REC?

Yes, we think this is a sensible solution to cover the responsibilities and rights of GDAA parties and consumers that are signed up to the Green Deal arrangements. The lessons learnt from the proposed merger of the MRA and the GDAA show that this is possible, if all parties are willing to work together with a consumer-focused outcome in mind.

Question 4.6: Do you think GDAA parties should accede to the REC, or be engaged in governance through some other means?

Yes. It is easier for Market Participants that are materially affected by provisions of the Code or whose actions can have adverse impacts on the consumer to accede and comply with provisions of the Code. We do need to consider if all market participants need to accede to the Code in its entirety. GDAA parties would be a prime example of that, where the rules that need to adhere to should be clear and easily untangled from the complexity of the code schedules. We are of the firm opinion, that other market participants should also be treated in this way. Gas Shippers and MAMs can have adverse effects on Consumer outcomes and should therefore be party to the REC in this way.

Question 4.7: Do you agree that the requirements currently held in SPAA Schedule 22 and the RGMA Baseline related to gas meter agent appointments and MDD should be mandatory for domestic and non-domestic suppliers? If not, why not?

Yes, we agree.



Question 4.8: Do you agree with our preferred option for governance of agent appointments and MDD, outlined as option 3 above?

Yes, we agree that option three enables harmonisation of processes and brings simplicity and cost saving possibilities to the switching arrangements.

Question 4.9: Do you support our proposal for consolidating the metering CoPs into the REC?

It would seem a sensible approach to bring all the metering CoPs under the REC and reconsider the full scope of their remit, rather than just uplifting the current obligations. It would also be an ideal opportunity to remove obligations relating to retail metering activities from the BSC and UNC and to move them into the REC. The alternative approach would be to give the REC priority provision for the change of those requirements within the BSC and UNC.

Question 4.10: Do you think MEMs should be parties to the REC?

Yes, we believe all market participants that can have an adverse effect on consumer outcomes, should be party to, and held accountable to, the provisions of the REC.

Question 4.11: Do you think changes to the metering Schedule(s) of the REC should be progressed through the Change Panel only, or should there be an additional MEM Panel?

We believe the creation of numerous change panels should be avoided to ensure the governance arrangements of the REC remain proportionate and cost effective. There is no reason that, given expertise or access to the right expertise, a competent Change Panel could not encompass change that covers the complete remit of the Code.

Question 4.12: Which of the requirements within SMICoP, if any, should extend beyond the initial installation of the smart metering system?

It would seem sensible to have an agreed code of practice that covers agents that will interface directly with consumers, whether they are installing or managing metering, Distribution equipment or consumer installations. This could also include metering reading and revenue protection visits. An agreed code of practice for all these areas can give the consumer assurance that an agreed level of service can be expected



regardless of the reason for a visit. This will undoubtedly require rethinking the current suite of agreed codes of practice and voluntary agreements and bringing them together in a plain English, easy to understand document and reflected in the drafting in the REC.

Question 4.13: Which of the requirements within SMICoP, if any, should apply to installation of non-smart metering systems and other site visits required to carry out metering related work?

Please see our response to question 4.12. We believe it is an ideal opportunity to rethink all of the metering CoPs and bring them more efficiently and with cost effectiveness under the REC arrangements.

Question 4.15: What are your views on our proposals for the governance and assurance of the SMICoP provisions once migrated to the REC?

It does not seem sensible to continue with the current governance and assurance provisions once the provisions become part of the REC. It is more cost effective to roll the governance into the REC governance and to let the PAB assess what techniques are appropriate and proportionate for the assurance of compliance to the arrangements.

Question 4.16: Do you agree with our proposal for incorporating PSR provisions in the REC?

The PSR is a cornerstone of consumer protection within the industry. It is a positive move that arrangements for the population and sharing of information relating to impacted consumers are brought together under the REC, the only Code to have the ambition of being truly consumer centric. We should be careful with the way data is stored and transported for these purposes, and how the data is kept relevant and up to date. There is currently a joint MRA and SPAA work group set up to look at the appropriate mechanisms for sharing data by secure means, as there are seen to be deficiencies in the current arrangements for both fuels. Before final arrangements are made, this work should be concluded, and future arrangements reflect their recommendations.

Question 5.1: Do you agree that Appendix 4 accurately describes all of the changes that should be made to licences to support the effective operation of the new switching arrangements?

We believe it is for the licensees and the authority to determine if the changes put forward are adequate.

Question 5.2: Do you agree that Appendix 4 accurately describes all of the changes that should be made to licences to support Retail Code Consolidation?



We believe it is for the licensees and the authority to determine if the changes put forward are adequate.

Question 5.3: Are there any changes to licences that, if not made prior to the switching arrangements going live, would inhibit the delivery of the Switching Programme?

We believe it is for the licensees and the authority to determine if the changes put forward are adequate.

Question 5.4: Do you think that we should remove licence obligations on GTs described in SLC 31 and DNOs in SLC 18 to provide one or more of the following services:

Enquiry Services

**Maintenance of a register of data associated with a metering point /supply point; and
Customer Enquiry service?**

The requirement to provide these services should properly sit within the governance framework of the REC, so as to give the RECCo Board the opportunity to openly procure all services in a manner that is impartial, effective and cost efficient. By moving the provision of all these services to the Code, it makes procurement and costs more transparent to those that will pay for them and can ensure proper scrutiny of these services is maintained to ensure they remain fit-for-purpose.