



Rachel Clark  
Ofgem  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

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By email: [switchingprogramme@ofgem.gov.uk](mailto:switchingprogramme@ofgem.gov.uk)

Dear Rachel

### **The Retail Energy Code - Proposals for v1.1**

We welcome the chance to respond to the above consultation dated 19 October 2020 regarding additional governance arrangements for switching under the Retail Energy Code (**REC**).

#### Company and Code Governance

We are supportive of the use of a nominations committee to appoint further RECCo directors with expertise in the consumer advocacy and digital transformation fields. The knowledge and skills of the prospective RECCo directors should deliver key intrinsic benefits to the development of the Code ahead of the implementation of the Faster Switching programme. The proposal to obligate Metering Equipment Managers (MEMs) to become parties to REC from the implementation of Faster Switching (v2) is welcomed. The inclusion of more categories of parties will only provide a greater opportunity to embrace more considered views to deliver future development of the REC. The integration of obligating metering agents into the REC does pose some specific challenges in performance assurance across BSC and REC. We will work with Ofgem to assist the resolution of any specific issues to help the assurance boards resolve any duplication of effort.

We fully expected the REC budget to be varied in the early stages of both the procurement and initial developments of the new Code. This would have proved challenging for REC Parties to forecast and secure additional funding for any under-allocation. We welcome the proposal of a zero based budget process with the RECCo Board responsible for the calculation of budgets. The nature of the conventional SPAA and MRASCo suggest that those organisations can use historical analysis to predict future budgets.



In the interests of transparency, REC parties would find it helpful if a strategy was published by RECCo to provide direction on how the Code would achieve its objectives and how it would develop in the future. It would also help with quantifying annual budgets which may increase due to changing business plans and delivery of the strategy. We are comfortable with the proposed red lined changes to the REC Main Body.

### Performance Assurance

The PAB will be made up of a number of REC Parties representing the diverse views of the entire industry. We agree with the inclusion of MEM's in PAB if they become obligated REC Parties. The PAB members will be acting impartially and independently of the interests of their employer, although bringing relevant experience to bear. We would anticipate that any member from Citizens Advice would be doing the same. However, we do not think that a priority should be proposed by Citizens Advice: this implies that other PAB priorities are somehow less consumer-focused - all priorities should be in the consumer's interests and Citizens Advice's views on all of these will be important and should be taken into account.

The performance assurance framework should provide clear routes of escalation detailing the liabilities faced by an underperforming party. The PAB along with the framework administrators should determine the appropriate routes of escalation for each monitored activity. We believe Ofgem should decide, rather than PAB significant breaches of performance and determine if further restrictions are required including the ability to limit suppliers to acquiring new customers.

### Change Management

We fundamentally agree with the proposal of preliminary and detailed impact assessments to ensure the timely progression of change proposals. We have concerns around how the Code Manager will prioritise the development of a large number of IA's if such a situation occurs. Limitations should be placed on the Code Manager to prevent the development of the number of IA's to ensure appropriate resources from across the industry are allocated. IA's should be scheduled depending on materiality, number and likely impact on REC parties. Some IA's and subsequent change proposals could require system development which should impact implementation timescales.

We would be concerned if a model enabled the Code Manager simply to refer its recommendation, which had not been approved by the Panel, to the Authority. Where the Panel determines, taking into account the recommendation and any further matters raised by the Code Manager, that in all the circumstances and against the REC objectives it was appropriate to escalate to the Authority, we agree that this would be appropriate.



Consideration also needs to be made against existing large scale external i.e. industry development and the impacts on parties' internal change development programmes (which may themselves be material in scale and scope). The challenge here is to prevent REC-driven change adversely impacting innovation and development more broadly within REC parties, and as far as possible, enabling the alignment of technology and digitalisation roadmaps to help REC parties to plan, against a change roadmap (again, as far as possible taking into account that anyone can propose changes).

The CCSG will have identified solutions through discussions with the industry and the creation of impact assessments to fix discrepancies in code. We are supportive of the Code Manager in limited circumstances, being able to raise changes to other codes, taking these proposals forward once they are thoroughly reviewed via the CCSG. Overall, we would expect the Code Manager and code administrators to work collaboratively, and to determine which entity, taking into account costs to industry parties and efficiency requirements, is best placed to lead on, coordinate and progress linked code changes. We agree that change paths need to be categorised and the approach taken seems sensible, noting that changes can be re-categorised depending on likely consensus/impact (e.g. a change to the REC where there is wide consensus). We have some concerns around pinning categorisation to binding obligations as this applies to guidelines. This would be appropriate for e.g. guidelines on how a DCC process works, but may not be appropriate for guidelines around an industry process which guidelines are widely followed, and upon which industry parties have developed their own processes and internal guidelines.

We agree in principle with the use of independent third parties for impact assessments where for an appropriate reason, the anticipated carrying out of IAs by service providers is not practicable. We think that this would need to be triaged so any cost incurred offers value for money. Key here would be the scope of the assessment specification, taking into account and reconciling with the limitations of a third party fully assessing impact/cost across a contractual value chain the issues and impacts.

In principle, we advocate the use of remote working where possible. However, we consider that face to face meetings - at an appropriate frequency and subject to any applicable safety requirements - do still have a place for key groups, such as the Change Panel. We agree that expenses should be recoverable provided these are reasonable.

### Theft Arrangements

We agree with the proposal to use an objection in circumstances relating to theft should be monitored by PAB. In principle, any objection period should start from the point that a supplier has completed an initial desktop review or assessment from the initial data point that sparked the inference of theft, e.g. tip-off, account review indicating changes in usage, etc. and passed the data to the relevant team, e.g. revenue protection or investigations, as the case may be. This indicates that the lead is considered sufficiently robust to merit



investigation. However, this time period for initial review may vary between suppliers so it may be appropriate to consider a “hold” for switching on receipt of a lead, where “hold” may only be sustained where the supplier as soon as practicable carries out its initial review. If the review does not uphold the lead, the reason for objection is gone. We would suggest a time limit here, based on an assessment of an average across suppliers.

Where a lead is passed to the investigations team/to the investigations process as the case may be, we consider that the objection may need to be sustained for as long as the investigation continues. There is a clear incentive on suppliers to progress as quickly as possible, given the impact on revenue. But the outcome of some investigations may simply take longer, which we recognise adversely impacts a customer seeking to switch should the investigation find no theft. As PAB monitoring is proposed, it could be possible to set up an e.g. three month limitation, with the option for the supplier to justify to PAB if they need a longer period. PAB will also have sight of suppliers’ use of objections overall and be in a position to assess any trends adverse to customers’ interests in suppliers’ use of the ability to object. We recognise that further thought is needed to consider whether the above is workable, as well as what, if any, communications it is appropriate or possible to pass to the consumer during the initial review period and during the investigation period.

We are not convinced that RECCo is in the best position to review the incentive schemes themselves, which schemes derive from licence obligations and reflect the implementation of policy, rather than delivery of that policy via the theft risk assessment service. If the scope of any review is the efficacy of the schemes as a policy and delivery against and consequences of that policy, this would more appropriately fall to Ofgem. If the aim or the review is based more on the mechanics of the schemes, this could be carried out by RECCo.

The challenge for RECCo is that they have little expertise in theft management and/or revenue protection, which is relevant to the production of any Theft Strategy or indeed to the procurement of a theft methodology. This could be addressed by a process of co-authorship and/or co-production, where suppliers (which could focus on those suppliers who pay the least under the schemes and address the most incidences of theft) could provide their expertise, alongside law enforcement agencies who could be consulted. This co-creation should precede any further procurement in this area.

Yours sincerely

[not signed]

**Carl Whitehouse**  
**Senior Policy & Regulations Manager**