

BEIS\OFGEM CONSULTATION

REFORMING THE ENERGY INDUSTRY CODES

1 Background and scope of this review

- 1. Do you agree with our four desired outcomes for the code governance landscape by the mid-2020s? Please explain. If you disagree, please explain what you consider the outcomes should be.*
- 2. Do you agree with the problems we have identified (in chapter 1 – Background – and in later chapters), and that they present a persuasive case for reform of the current framework for energy codes? Yes/No/Don't know. Please explain.*
- 3. Do you have additional evidence on the performance of the current framework?*
- 4. Do you agree with our proposed scope reform? Yes/No/Don't know. Please explain. If not, which additional codes or systems do you think should be included/excluded?*
- 5. Are there any codes or systems that we should only apply a limited set of reforms to? Yes/No/Don't know. Please explain.*

Equinor UK Limited's response will primarily cover the arrangements contained within the UNC. In general, UNC code governance works reasonably well but there are marginal improvements that could be made to ensure greater efficiency. Equinor does not consider it necessary for to amalgamate the gas & electricity codes under a single code manager for instance and feels the reforms should reflect their very different nature and not be a one size fits all solution.

Equinor UK Limited is concerned that while the scope of the review should consider all codes the specific nature of each sector needs to be considered separately. We are concerned that gas specific issues could be side-lined or ignored if the codes are amalgamated as it seems from the consultation the focus is more towards Power governance Issues.

The future regulatory landscape should be easy to navigate, forward-looking and responsive to change while at the same time able to innovate to achieve the ambition of delivering net-zero by 2050. Furthermore, future energy regulation will have a critical role in the decarbonisation of heat and transport – either through electrification or the development of green gas solutions. Any solution should have these principles at the centre of it.

In terms of the current framework our observations are that a lack of strategic direction is usually the cause for delays in implementing important changes. The gas charging regime is a classic example where a Significant Code Review (SCR) should've been called by Ofgem at the start of such an important process. This would've provided clear direction to industry to ensure compliance deadlines were met. The significant levels of staff turnover and a lack of engagement at workgroup meetings from Ofgem also act as a barrier to effective and timely governance. Wider use of SCR going forward should be considered for major code changes at the earliest possible stage

2 Vision & options

6. Do you agree that the four areas for reform are required? Please provide reasons for your position and evidence where possible.

Any review to the UNC and the way it is administered must ensure all industry participants can remain fully engaged in future change processes while ensuring there are robust challenge and appeal processes to Ofgem, and the CMA as is currently the case.

Regarding simplification of codes, the UNC is a lengthy and complex set of documents. In some cases, it may be appropriate to incorporate additional documents such as gas transmission capacity release and substitution methodology statements into the codes, this would be consistent with desired outcome 1. Market participants would be able to identify the rules that apply to them, rather than the rules being spread across multiple documents.

7. Do you agree with the two broad models outlined? Please provide reasons for your position and evidence where possible. – further detail can be found on each model in the chapters that follow.

8. Which model do you believe will best deliver on our desired outcomes? Please explain. NB: – further detail can be found on each model in the chapters that follow.

Equinor feels Model 1 is the most appropriate with a strategic body that must be statutory and report to Parliament. A body which has a vested interest in the market is not truly independent and would not be fit for purpose. There is a clear distinction between the strategic direction function and the code manager role so a combined body would not be appropriate. Likewise, we consider code management has been accountable and efficient to date and we would not, in any case, see the code manager as having enforcement functions either alongside or instead of Ofgem.

9. Do you agree with the changes to the role of code signatories we are proposing?

The current regime does not lack independence given the role of Ofgem in approving code changes with material impact and having powers to initiate changes which they could use more often. The role of code managers signatories should be fully accountable to code signatories while ensuring they are sufficiently resourced to provide an efficient critical friend function.

3 Providing strategic direction

10. Do you agree there is a missing strategic function for codes development in the energy sector and introducing a strategic function with the responsibilities outlined in chapter 3 is the best way to address the lack of strategic direction? Yes/No/Don't know. Please explain. Who is best placed to fulfil the strategic function and why?

11. Do you agree with the objectives and responsibilities envisaged for the strategic function, and are there any additional objectives or responsibilities the strategic function should have?

12. How may this new function potentially impact the roles and responsibilities of other parts of the framework? Do you foresee any unintended consequences?

13. What are your views on how the strategic direction should be developed and implemented (including the option of establishing a strategy board to aid engagement)?

14. Do you think that the scope of the strategic function should be limited to taking account of the Government's vision for the energy sector and translating it into a plan for the industry codes framework, or are there other areas it should address? (for example, impact on vulnerable consumers)? Yes/No/Don't know. Please explain.

The case for establishing a further administrative function is not particularly strong and if one is to be created it should be fully independent of the markets. Indeed, current processes could be speeded up if BEIS and Ofgem were able to provide greater contributions around their thinking during the workgroup phase, rather than allow workgroups to use up valuable industry time on a process that might not be compliant with Network Codes or deadlines.

We support an explicit objective on decarbonisation and net zero as part of Ofgem's statutory duties, should Ofgem take on the new strategic body function. Such change will support long term objectives and provide relevant support for the energy transition.

4 Empowered and accountable code management & independent decision making

15. Do you agree that in addition to the current responsibilities that code administrators have, that a. the code manager function should also have the following responsibilities: a. identifying, proposing and developing changes (analysis, legal drafting etc.), including understanding the impacts; b. making decisions on some changes, or making recommendations to the strategic body; and c. prioritising which changes are progressed. Yes/No/Don't know. Please explain.

16. What is the best way to ensure coherent end-to-end changes to the codes and related systems? For example, is it through having end-to-end code and system managers?

17. Should the approach differ on a case-by case basis (i.e. depending on the code or system in question)? Yes/No/Don't know. Please explain.

18. Do you agree that the code manager function should be accountable to the strategic body and that this should be via a licence or contract? Yes/No/Don't know. Please explain.

Equinor UK Limited notes that for instance Joint Office do not carry out analysis and legal drafting tasks for UNC. It could be that central procurement for legal text and drafting the UNC would benefit stakeholders going forward. Taking a key role in providing analysis would require the Code Manager to undergo significant changes in the way it is funded if this is taken in house. The Funding, Governance & Ownership (FGO) model that has been implemented for Xoserve in its role as Central Data Services Provider (CDSP) is one such model that should be considered for code managers to become appropriately funded and resourced under a new regime.

The ability to raise Code modification proposals however, should not be granted to a Code Manager (other than minor housekeeping changes). The Code Manager should have the ability to develop a change to a Code but should not be able to raise it as it may not be in the interest of industry. For similar reasons, the Code Manager should not have the ability to approve or reject modifications. This should remain with the modification panel however in our view the panel has become too big and a more efficient structure put in place.

Should the Code Manager be granted decision making powers, a question remains whether The Authority still retains a role in decision making and how much decision-making power is delegated to the new body. Having read the consultation it could be interpreted that industry may no longer be able to raise proposals, this would be unsatisfactory and should be avoided to ensure industry expertise is retained during the governance process.

19. *Are there more effective ways that a code manager function's accountability to the strategic body could be enshrined other than in a licence or contract? Please explain.*
20. *Do you agree that we should not consider further a model whereby code managers are accountable to industry? Yes/No/Don't know. Please explain.*
21. *Do you have views on whether the code manager function should be appointed following a competitive tender process or other competition? Yes/No/Don't know. Please explain.*
22. *Do you think the code manager function should be established by the strategic body creating a body or bodies? Yes/No/Don't know. Please explain. If the code managers were established in this way, would we need to consider any alternative approaches to funding or accountability? Yes/No/Don't know. Please explain.*
23. *In terms of establishing/choosing the code manager function, do you agree that we should not consider further: a. requiring an existing licensee to become the code manager; and/or b. requiring a licensee (or group of licensees) to create the code manager? Yes/No/Don't know. Please explain.*
24. *What would be the most effective way to ensure the code manager function offers value for money (for example, through price controls or budget scrutiny)? More broadly, what is the right incentive framework to place on the code manager function? Please explain.*
25. *Are there any factors that: a. would stop parties (including code administrators) from becoming a code manager b. should prevent parties from becoming a code manager (e.g. do you agree that licensees should not be able to exercise control of the code managers).*
26. *How should the code manager function be funded (for example through licence fees or by parties to the code(s)?*

Equinor UK Limited believes it has answered these questions in the previous paragraph. However, we do believe the code managers should be accountable to the code signatories.

5 Code simplification & consolidation

27. *Are there any quick wins that could be realised in terms of code consolidation and simplification?*
28. *How many codes would best deliver on the outcomes we are seeking under these reforms?*
29. *Which option (one code manager versus multiple) would best deliver on the outcomes we are seeking under these reforms?*
30. *Which of our consolidation options would best deliver the outcomes we are seeking to achieve? Please provide evidence for your examples.*
31. *Do you agree that the codes should be digitalised? Yes/No/Don't know. Please explain.*

Equinor UK Limited believes that Option C is the most suitable option as it supports a consolidation while keep the codes evenly split across gas & electricity. There would be separately independent, appropriately funded and fully resourced code managers containing specialist knowledge for their own area. As previously mentioned in our response the authority also needs to show greater engagement during all phases of the governance process for these proposals to bear fruit.

The codes becoming digitalised should be one of the 1st pieces of work to take place. Currently the information is very difficult to find and a guidance document for each code is also required to assist participants in finding areas most relevant to them.

6 Monitoring and compliance

32. *What role should industry have in monitoring code compliance or making decisions on measures needed to address any identified non-compliance?*
33. *Which of the two models we propose would better facilitate effective monitoring and compliance arrangements? Please explain.*

Enforcement with licence requirements and codes should remain with Ofgem. The code manager may have a role to play in monitoring both effectiveness and compliance and could assist the regulator in prioritising its enforcement activities.

Yours Sincerely

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