

Reforming the Energy Industry Codes – E.ON response

Question 1

Do you agree with our four desired outcomes for the code governance landscape by the mid-2020s? Yes/No/Don't know. Please explain. If you disagree, please explain what you consider the outcomes should be.

1. Yes, we agree with the desired outcomes, although there will still be a need for industry input. Consideration should be given to areas where regulation is likely to be required in future, for example, heat. This review should be seen as an opportunity to set the industry up for the future, rather than one step on an incremental path. We would recommend, however, that the Retail Energy Code (REC) consolidation be completed and allowed to bed in first so that learnings from that process can be utilised to ensure the full consolidation is as efficient and effective as possible. However, it is important that the implementation of the REC should itself follow the principles of reducing complexity and ensuring consolidation.

Question 2

Do you agree with the problems we've 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.

2. Yes, we agree with the problems identified and there is indeed a persuasive case for reform. The process will be resource-intensive and the timetable for change must take into account the significant amount of change currently being experienced in the energy market, e.g. major programmes such as faster switching and settlement reform in addition to smaller licence reforms such as introduction of new guaranteed standards and rules on self-disconnection and self-rationing. The amount of change currently being experienced in the market is hard for larger suppliers to deal with; it is difficult to see how smaller suppliers can cope given that they are likely to have less resource available to them.
3. The development of changes in the codes has been noticeably faster in recent years; however, end-to-end timings still look long due to system implementation times. Thus it appears that changes are not agile in development and delivery. We recommend this review looks at this to estimate what an average implementation time period should be; for example, changes should take no more than six months. There should also be an additional analysis of where delays in the current process occur, to give greater insight into where hold-ups in the process occur.
4. The CACoP is not always effective and would benefit from greater detail. It can sometimes be the reason for delays, especially where changes are cross-code. If there were improvements to the way CACoP works, it could deliver part of what is being considered in code consolidation. There could also be improvements to the CACoP website, for example to show a consolidated change register. Another area for improvement is in the way CACoP cascades information; while forward looking views are captured, they are not shared in a useful way.

While this information is available for individual codes, it would be helpful to have a consolidated view.

Question 3

Do you have additional evidence on the performance of the current framework?

5. We do not have any additional evidence.

Question 4

Do you agree with our proposed scope of reform? Yes/No/Don't know. Please explain. If not, which additional codes or systems do you think should be included/excluded.

6. We would like to understand whether the scope includes UK Link; we believe this should be part of the scope. We are particularly keen to see consolidation of gas codes, particularly the UNC and IGTUNC: there is currently a great deal of duplication, and change tends to be reactive rather than proactive. It is important to look to the future and what will be needed for existing programmes such as half hourly settlement, and what DCC enhancements are anticipated.

Question 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.

7. No, we do not believe there are any codes or systems to which only a limited set of reforms should be applied.

Question 6

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

8. Area 1 – Providing strategic direction
Ofgem already provides this through the use of significant code reviews and could use these powers more actively than it currently does. While it may be pragmatic to revise the process by which strategic direction is given, it should still be given by Ofgem. There is no need to create a new organisation.
9. Area 2 – Empowered and accountable code management
We agree there is a need for improvement in the code management role, to ensure consistency across all codes, manage prioritisation and monitor compliance. This should not be at the expense of loss of inputs from industry parties, who have the knowledge and expertise to drive forward necessary change.
10. Area 3 – independent decision-making

We agree that decision-making needs to be more agile, responsive to change and work better for customers. However, whilst solution development could be more aggressive, there needs to be consideration for sufficient time to ensure that system development and implementation can be delivered properly. There is a vital role for industry to play in this; suppliers are closer to customers and understand their needs better than those who do not relate to them on a day-to-day basis. Where suppliers are commonly agreed that something is not in customers' best interests, it is important they are listened to. Examples where this has not happened in the past are Green Deal and QR codes; both were introduced despite strong industry advice, and both resulted in unnecessary costs that, ultimately, fell to consumers.

11. Area 4 – Code simplification and consolidation

We agree with this element of reform. It will be helpful for industry participants in understanding the rules and preventing duplication and conflict, and will also be easier for consumers. However, there must be consistency in the use of terms. Consolidation must take into account work already done on the REC.

Question 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.

12. We believe there are advantages to Model 1 of independence and clear lines of demarcation.

Question 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.

13. More information is needed on these to enable stakeholders to make a fully informed choice. However, at this stage, we believe Model 1 will best deliver the desired outcomes. The organisation which would be responsible for strategy would be clearly separated from the organisation that delivers that strategy. We would recommend that there be representation on the strategic board by the industry's trade body as well as consumer bodies, to ensure a fully rounded policy view.
14. The code management role should not be responsible for both raising modifications (other than housekeeping or straightforward, non-contentious modifications) as well as approving them without proper consideration of industry's advice and recommendations, thus ensuring proper checks and balances are in place.

Question 9

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

15. We broadly agree with the proposals; however we believe code signatories should continue to have a role in approving modifications. As stated above, suppliers have a much closer relationship with consumers and understand what is in their interests, more so than a strategic body or code administrator.

Question 10

Do you agree there is a missing strategic function for codes development in the energy sector and that 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?

16. Yes, we agree, although Ofgem does currently have a role in strategic development through the significant code review process. There should be a board headed up by Ofgem, with representatives from industry bodies such as trade bodies, consumer bodies such as Citizens Advice and government. We do not believe it is necessary to create a new independent body; Ofgem should carry out the administrative and regulatory roles of the strategic function.

Question 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?

17. Yes, we agree with the objectives and responsibilities envisaged. We do not believe there are any additional objectives or responsibilities.

Question 12

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

18. We believe the function should ensure equal representation by all relevant parties. Strategic priorities are likely to change as governments change, and therefore the government role should be no greater than that of other parties. The strategic function should not be autocratic; parties such as suppliers, network operators, consumers (including representatives of vulnerable consumers) and third parties (e.g. metering agents and brokers) should all be represented on a Strategic board which oversees it.

Question 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)?

19. Please see our response to question 12 above.

Question 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 code framework, or are there other areas it should address (for example, impact on vulnerable consumers)? Yes/No/Don't know. Please explain.

20. No, governments change and therefore so do strategies. The Government's vision at any particular time should only be part of the scope: other members on the strategic board should have a say in the strategic direction, acting in accordance with their area of interest.

Question 15

Do you agree that in addition to the current responsibilities that code administrators have, that 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.

21. Yes, we agree it should have these responsibilities, although as we have stated in our response to question 8, it should not be able to both propose modifications (other than housekeeping or straightforward, non-contentious modifications) as well as approving them without proper consideration of industry's advice and recommendations.

Question 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?

22. Yes, we agree that end-to-end code and system managers would be the best way to ensure coherent end-to-end changes to codes and related systems. This would provide greater clarity and efficiency in delivering change. Consideration must be given to how change will land with industry participants and consumers, and to allowing for adequate implementation periods that avoid post-delivery issues.

Question 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.

23. At this stage we do not believe there is a need for a different approach for different codes or systems. We support a consistent approach.

Question 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.

24. Yes. Our preference would be for a licence, to ensure greater transparency.

Question 19

Are there more effective ways that the code manager function's accountability to the strategic body could be enshrined other than in licence or contract? Please explain.

25. We are not aware of more effective ways at this stage.

Question 20

Do you agree that we should not consider further a model whereby the code manager function is accountable to industry? Yes/No/Don't know. Please explain.

26. No. We believe that industry should be able to hold code managers to account, although industry should not have unilateral power. Consideration must be given to ensuring a two-way process, whereby parties are accountable to each other.

Question 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.

27. We do not agree that there should be a competitive process; it would be costly and is unnecessary if the party appointed is not-for-profit, which we believe it should be.
28. If a decision is taken to undertake a competitive process, it must be carried out in an efficient and cost-effective manner. It is important that lessons are learnt from the Data Communications Company and the Centralised Switching Service selection processes in order to avoid burdening the industry with additional costs stemming from a tender exercise.
29. Whilst a profit model would incentivise performance, this would come at a cost to industry. A not-for-profit model would reduce the need for competitive re-tendering on a cyclical basis and, providing the successful bidder met industry-set KPIs, efficiencies should be provided that would benefit consumers. Over time, with new technology, improvements should be expected; regular opportunities should be allowed for industry to scrutinise and challenge costs to ensure this happens. This would ensure continuous improvement.

Question 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.

30. No, we do not think the code manager function should be established by the strategic body. The code manager function should be not-for-profit. If an applicant for the code manager function has an existing industry role or commercial function, it should be required to explain, as part of the competitive process, how it will ring-fence its code manager functions in order to separate funding. It must be able to demonstrate efficiency to industry and if it fails to do so, there should be severe penalties.

Question 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.

31. We recognise the merits of the code manager function being undertaken by an existing code manager, who is more likely to have the necessary experience. However, if a non-code manager is felt to offer a more efficient and cost-effective model, we would welcome that. The code manager should be held to account by the industry through industry-set KPIs.

Question 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.

32. We believe this may need to be different for different functions. There should be transparency to ensure that code managers can be held to account where they are not offering value for money. Alternatively, there could be robust KPIs and budget scrutiny.

Question 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)?***

33. Consideration should be given to whether there are conflicts of interest.

Question 26

How should the code manager function be funded (for example through licence fees or by parties to the codes(s))?

34. Ideally, funding should be via general taxation. Failing that, there should be a licence fee covered by each participant on a market role basis.

Question 27

Are there any quick wins that could be realised in terms of code consolidation and simplification?

35. One quick win would be consolidation of the UNC and IGTUNC. Indeed, we believe there would be significant advantage in starting with the CDSP suite of systems, e.g. UK Link.

Question 28

How many codes would best deliver on the outcomes we are seeking under these reforms?

36. We believe that a single unified code would be too big to manage. Similarly, a single code manager over several different codes would require an unrealistic amount of expertise. We support the proposition put forward by Elexon: Retail Smart Energy Code, Wholesale and Settlement Code and Network Use of System Code. There would need to be a process to deal with conflicts and disagreements; the strategic body could step in to resolve these.

Question 29

Which option (one code manager versus multiple) would best deliver on the outcomes we are seeking under these reforms?

37. As we have stated in our response to question 28, we believe multiple codes but reduced and consolidated along the lines set out in the answer to Q28 would best deliver on the outcomes being sought.

Question 30

Which of our consolidated options would best deliver the outcomes we are seeking to achieve? Please provide evidence of your examples.

38. As we have stated in our response to question 28, we believe there should be a separate code manager for each code but that the codes should be consolidated together. We do not believe a single code manager could have sufficient expertise. We therefore believe Option B would best deliver the outcomes being sought.

Question 31

Do you agree that the codes should be digitalised? Yes/No/Don't know. Please explain.

39. We agree that the codes should be digitalised, but it is not sufficient merely to make use of hyperlinks. Use should be made of up to date technologies via apps, chatbots and youtube. Parts of the code could be joined together, use could be made of diagrams and guidance, e.g. golden threads as used in the MRA. This is a significant opportunity to make things simpler for the industry and consumers alike; it may take longer, but would be worth the time invested.

Question 32

What role should industry have in monitoring code compliance or making decisions on measures needed to address any identified non-compliance?

40. Industry must be able to comment and help shape the rules. There are currently significant issues where monitoring relies on league tables and peer-to-peer comparison with no reflection on differences in customer portfolios or numbers of customers. The industry should be represented on PABs; we appreciate that smaller parties may not have sufficient resource, but could be represented by industry bodies. It is to be hoped that fewer codes will mean a need for fewer meetings, which could also help those with restricted resource. It is also important to have more use of virtual meetings, by telephone or Skype to reduce travel for those outside London. It is vital that everyone is represented to prevent an 'us' and 'them' mentality. Without representation there is likely to be less willingness to collaborate or self-report.

Question 33

Which of the two models we propose would better facilitate effective monitoring and compliance arrangements. Please explain.

41. We believe Model 1 would better facilitate effective monitoring and compliance. A separate strategic body, we believe, would be more able to support innovative new ideas and drive through the necessary change.

Question 34

With Model 2 – integrated rule-making body – should the IRMB have responsibility for imposing measures (where a party is non-compliant with the code) or should this be for another organisation? Please explain.

42. No, in Model 2 the strategic body and code managers are too close. However, using a separate organisation would add to costs: we therefore do not support Model 2.