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Sent by email only to: codereform@beis.gov.uk & industrycodes@ofgem.gov.uk

Dear Sir / Madam

Centrica response to the joint BEIS and Ofgem consultation on reforming the energy industry codes

We welcome the Ofgem and BEIS joint review and consultation on reforming the energy industry codes. With a significant growth in low carbon generation, a move to a smarter and more flexible system, innovation in products and services, new technologies and business models, the time is right to consider whether the energy codes need reform and, if so, to what extent.

We believe that a future energy code framework should:

- make it easier for any market participant to identify the rules that apply to them and understand what they mean; making it easier for new and existing industry parties to innovate to the benefit of energy consumers;
- be forward-looking, informed by, and in line with, the Government's ambition and the path to net zero emissions. Ensuring that codes develop in a way that benefits existing and future energy consumers;
- be agile and responsive to innovation and change that benefits energy consumers, while able to reflect the commercial interests of different market participants, to the extent that this benefits competition and consumers; and
- be able to accommodate a large and growing number of market participants, with effective compliance, clear accountability and performance management.

The desired outcomes would best be delivered by:

- Clarity over what BEIS and Ofgem see the ***purpose*** of the industry codes. This is essential for this review to be successful;
- Introduction of a cross-cutting ***strategic direction*** for industry codes that ensures alignment of code parties' objectives, and system delivery bodies' objectives, with that of agreed policy and wider changes in the market;

- A shift from code administrators to ‘intelligent’ and empowered **code managers** that have the right expertise, resources and powers to oversee the change process, to monitor compliance with code obligations and to deliver innovative and effective ways for market participants to engage with the codes;
- Pursuing further **code consolidation and simplification** on a case-by-case basis and replicating the Retail Energy Code (REC) principle of a single code manager for several related energy codes; and
- An **effective governance structure** that, on a consistent basis, should result in decisions that are in the long-term interests of current and future consumers. Appeal rights ensure that regulatory decisions are made consistent with statutory duties and are therefore key to ensuring the quality of decision making.

Further thoughts

The industry is reliant on code governance, code administration, and central systems for the efficient day-to-day operation of the industry. Change is also a fundamental necessity in the industry and we welcome initiatives that may improve the management of change, whether it is small tactical changes, or significant strategic change.

The review has already highlighted desired outcomes which we would expect that all market participants can be supportive of. As set out above, we are supportive of these broad outcomes.

We should not however overlook how the energy codes have developed, positively, over the years since privatisation. It is also important to remember the purpose of the different codes, which range from setting out technical principles for the operation of energy networks and industry systems, through to the network and settlement codes that determine the financial outcomes for network owners and operators (including how these significant costs are then recovered from network users and ultimately the end consumer). When considering reform of the codes it is important to ensure they effectively deliver the purpose and build upon what works well today.

We have seen many changes over the years, for example, the introduction of self-governance across most of the codes. This has empowered the market to take responsibility for industry arrangements, often of a technical and commercial nature, and manage the process, from change inception to implementation, without the need for regulatory intervention. This is a valuable part of the energy codes processes and, whilst aiming to deliver desired outcomes, it is important to ensure we do not erode the benefits that the existing arrangements present.

We have also seen energy codes take on the responsibility for charging methodologies, performance assurance, audit and consumer protection – this has led to greater transparency for all parties and the ability to propose and take forward changes to continually improve arrangements in support of relevant objectives and in the interests of consumers.

While current codes governance has been effective in developing new content in response to changes in technical and policy requirements over the years, the governance structure has been less successful in developing the form of the codes. Today’s array of codes has become fragmented and complex, slow to implement change and consequently resulting in barriers to

effective coordination. To deliver to the desired outcomes, the review has proposed four clear areas of reform:

Providing strategic direction – As with the recommendations from the Competition and Market Authorities (CMA) conclusions on code governance back in 2016, we support the introduction of a strategic direction. A cross-cutting strategic direction for industry codes should be central to aligning code parties' objectives, and system delivery bodies' objectives, with that of agreed policy and wider changes in the market. Accountability is crucial to having a robust and valued strategic direction and a suitable supporting governance framework.

Empowered and accountable code management: The move from basic code administration services to a more 'intelligent' code manager function is a critical step in delivering many of the desired outcomes. Many users, large and small, suffer from 'code change fatigue' and the costs associated with engaging across multiple codes. A more empowered code manager should have the right expertise, resources and powers to oversee the change process and monitor compliance with code obligations – centralising much of the work that is currently supported by what is seen as the industry 'incumbents' and providing a much-needed simpler way for all parties to access and interact with the codes.

Code simplification and consolidation: We support code simplification and consolidation where there is a demonstrable benefit in doing so. Simplification of codes should be possible in terms of reducing unnecessary or irrelevant content such as content relating to past, time bound events. However, we do not believe there is merit in trying to remove technical or commercial content from the codes as alternative governance arrangements would be needed, leading to further fragmentation and complexity.

Code consolidation, such as being proposed for the Retail Energy Code (REC), does present the potential for more effective governance. We see the main opportunity here stemming from the appointment of a single code manager for several codes rather than the actual consolidation of the codes themselves (i.e. code admin/manager consolidation). Most industry participants are not, or should not need to be, exposed to the actual legal text of a code, instead they need to be better able to understand the implications the code has for them. Consolidating several codes into a single document does not deliver the desired outcomes, it creates the risk of greater complexity and the potential to further disenfranchise market participants. However, the appointment of a single code manager for several codes should make those codes accessible to parties in a consistent and uniform way. Having a single code manager responsible for several codes enables the following:

- a single point of access and contact for parties, including technology innovation such as digitisation and digitalisation of codes;
- standardised processes and arrangements across codes (e.g. accession, credit cover, modification procedures, performance assurance);
- single code modifications covering cross code impacts (e.g. rather than multiple change proposals);
- Maintaining appropriate representative arrangements with parties only needing to engage with the codes that they need to interact with; and

- Greater ability to co-ordinate change across consolidated codes and with other code managers

Independent decision-making – We support the move to an effective governance structure that delivers sound decision making, on a consistent basis, that results in changes that are in the long-term interests of current and future customers.

The purpose and content of codes within the scope of the review vary quite considerably. They range from technical metering Code of Practices through to codes that govern the rights and responsibilities of users under the distribution and network codes. Clarity over what BEIS and Ofgem see the *purpose* of the industry codes is required for this review to be successful.

Changes to the codes also ranges from the more technical day-to-day operation of industry systems and communications through to significant policy change on, for example, market operations or charging methodologies. It is therefore important that these differences are reflected through clear delineation in decision making governance. The codes need to differentiate between ‘technical’ issues, that can be decided upon by industry (e.g. through self-governance) and ‘material policy’ issues, that are decided upon by Ofgem or an independent decision-making body.

A current challenge identified in the review is the slow pace of change. This can be due to prolonged industry discussions or complex and time-consuming system changes. However, it is often due to the decision process being opaque, slow and open-ended. Whilst effective coordination and the benefits from having code managers may help to resolve this, we also need to ensure that Ofgem, or any independent decision-making body, has clear decision-making processes that are time bound and supported by clear statutory duties. Industry discussions can also often be unduly influenced by divergent commercial interests of code parties. It is therefore important for code managers to be sufficiently independent, supported by appropriate expertise and able to ensure decisions, or recommendations, are founded on a sound basis with clear benefits to competition, consumers and any applicable relevant objectives.

For material policy issues, the decision body, whether it is Ofgem or a separately created entity, must be sufficiently independent from the industry and make decisions that are consistent with a clear set of statutory duties. Along with this, the process of decision making for material policy issues needs to be clear, open to scrutiny, and subject to appropriate appeal rights.

Appeal rights are an important element of an effective governance structure. It is appeal rights that ensure that regulatory decisions are made consistent with statutory duties and so ensure the quality of decision making. For appeal rights to have this effect, they ideally should have a consistent form across all codes and be triggered through a similar, clearly understood process.

In the existing code arrangements some modification proposal decisions can only be legally challenged in the High Court through the Judicial Review process, whereas others can be contested via the Competition and Market Authority (CMA). Code modification changes will often be complex and technical in nature and therefore any appeal must be adjudicated over

by a body with sufficient expertise, or access to such expertise, to be able to engage with that complexity. The CMA and the Competition Appeal Tribunal (CAT) could be used for such appeals. Any appeal process must be accessible to all, or any, impacted party and be a clearly understood process.

Proposed new institutional framework (Model 1 and Model 2)

We support Model 1 as a proposed change to the overall energy code governance framework. It strikes the right balance in ensuring that energy codes are coordinated and focussed on delivering the strategic direction whilst retaining the appropriate roles and responsibilities for market participants in governance and decision making.

Under Model 1, the strategic body could be a new independent organisation or become an Ofgem function. Integration into Ofgem's role would allow for greater coordination between their own forward work plan, Government initiatives or, if applicable, any EU led work. Whilst this may not be a fully independent strategic body we would expect the strategic direction to be established in consultation with code managers and market participants and developed in a transparent manner. A separate body could resolve any independence issues but could create an inefficient addition layer of governance and unnecessary complexity around accountability and role.

If Model 2, the proposed integrated rule-making body (IRMB), were to be taken forward then we see the most practical solution being that Ofgem take on this role. This would be effectively taking in-house the overall strategic direction, oversight and decision making for material policy decisions under the codes. Model 2 is likely to further alienate market participants from the code process, leading to less industry engagement and expert input, as well as undermining the elements of code processes that work well under today's arrangements (e.g. self-governance if it is not retained).

We have provided answers to the consultation questions in Appendix A below. We look forward to the next stage of the energy codes review process and discussing the proposals in more detail.

If you would like to discuss any aspect of this response, then please do not hesitate to contact either myself or Simon Trivella (simon.trivella@centrica.com).

Yours faithfully,

(by email)

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Appendix A - Consultation Questions

1 Background and scope of this review

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.

Yes, we agree that the four desired outcomes are sensible to overcome the challenges and deficiencies that exist in today's energy code arrangements.

Question 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.

With the continued development of industry codes since privatisation, and introduction of additional codes, the overall framework has become fragmented, complex and has created barriers to effective coordination.

Whilst we are supportive of this review, and supportive of tackling the issues we face, we should not lose sight of the positives that we can take from existing arrangements or underestimate the level of resource and expertise industry participants dedicate daily to support and further industry arrangements through the codes.

Question 3: Do you have additional evidence on the performance of the current framework?

We do not believe that self-governance modifications have been appropriately reflected in the analysis on code modification processes. Self-governance is a good example of what works well today and should continue within future arrangements. Where the pace of change appears slow it is often for one, or more, of the following reasons:

- Changes involve complex system changes that come at significant cost and can involve implementation lead times of over a year;
- Change proposals have little or no merit and are not progressed in a timely manner (e.g. a lack of drive and/or support);
- Authority determinations can be slow and erratic;
- Changes are often sent back by the Authority to change panels for further analysis, something that could be avoided through better and earlier Authority engagement in the change process;
- Change proposals that have differing commercial impacts for participants (e.g. charging methodology changes) often result in multiple alternative proposals and a consequential slowing down of progression through the various stages.

We believe the review would benefit from further analysis on the above to better inform the issues that need to be resolved through the proposed reform.

Question 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?

Yes, we agree with the proposed scope of reform.

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.

No, all codes and systems should be subject to review and possible reform. However, as part of the review process we expect that the merits of reform will be looked at on a case-by-case for each code, or group of codes. Reform should only be taken forward where benefits for reform can be identified for individual codes. For example, code consolidation will be a time consuming and complex task, with potentially limited benefits and should not be a mandatory outcome for all codes.

2 Vision & options

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

We are supportive of the four areas of reform but do not agree with the proposed outcomes for independent decision making. We have the following comments on the four proposed reform areas:

- **Providing strategic direction** – As with the recommendations from the Competition and Market Authorities (CMA) conclusions on code governance back in 2016, we support the introduction of a strategic direction. A cross-cutting strategic direction for industry codes should be central to aligning code parties' objectives, and system delivery bodies' objectives, with that of agreed policy and wider changes in the market. Accountability is crucial to having a robust and valued strategic direction and a suitable supporting governance framework.
- **Empowered and accountable code management:** The move from basic code administration services to a more 'intelligent' code manager function is a critical step in delivering many of the desired outcomes. Many users, large and small, suffer from 'code change fatigue' and the costs associated with engaging across multiple codes. A more empowered code manager should have the right expertise, resources and powers to oversee the change process and monitor compliance with code obligations – centralising much of the work that is currently supported by what is seen as the industry 'incumbents' and providing a much-needed simpler way for all parties to access and interact with the codes.

Code simplification and consolidation: We support code simplification and consolidation where there is a demonstrable benefit in doing so. Simplification of codes should be possible in terms of reducing unnecessary or irrelevant content such as content relating to past, time bound events. However, we do not believe there is merit in trying to remove technical or commercial content from the codes as alternative governance arrangements would be needed, leading to further fragmentation and complexity.

Code consolidation, such as being proposed for the Retail Energy Code (REC), does present the potential for more effective governance. However, we see the main opportunity here stemming from the appointment of a single code manager for several codes rather than the actual consolidation of the codes themselves (i.e. code admin/manager consolidation). Most industry participants are not, or should not need to be, exposed to the actual legal text of a code, instead they need to be better able to understand the implications the code has for them. Consolidating several codes into a single document does not deliver the desired outcomes, it creates the risk of greater complexity and the potential to further disenfranchise market participants. However, the appointment of a single code manager for several codes should make those codes accessible to parties in a consistent and uniform way. Having a single code manager responsible for several codes enables the following:

- a single point of access and contact for parties, including technology innovation such as digitisation and digitalisation of codes;
- standardised processes and arrangements across codes (e.g. accession, credit cover, modification procedures, performance assurance);
- single code modifications covering cross code impacts (e.g. rather than multiple change proposals);
- maintaining appropriate representative arrangements with parties only needing to engage with the codes that they need to interact with; and
- greater ability to co-ordinate change across consolidated codes and with other code managers

Independent decision-making –

We support the move to an effective governance structure that delivers sound decision making, on a consistent basis, that results in changes that are in the long-term interests of current and future customers.

The purpose and content of codes within the scope of the review vary quite considerably. They range from technical metering Code of Practices through to codes that govern the rights and responsibilities of users under the distribution and network codes. Clarity over what BEIS and Ofgem see the *purpose* of the industry codes is required for this review to be successful.

Changes to the codes also ranges from the more technical day-to-day operation of industry systems and communications through to significant policy change on, for example, market operations or charging methodologies. It is therefore important that these differences are reflected through clear delineation in decision making governance. The codes need to differentiate between ‘technical’ issues, that can be decided upon by industry (e.g. through

self-governance) and ‘material policy’ issues, that are decided upon by Ofgem or an independent decision-making body.

A current challenge identified in the review is the slow pace of change. This can be due to prolonged industry discussions or complex and time-consuming system changes. However, it is often due to the decision process being opaque, slow and open-ended. A recent example of this is the DCUSA change proposal 297 “*Network Interventions SLA Enhancements*”¹. This change proposal was raised in April 2017, voted on in December 2017 and has been with the Authority for decision since. Whilst effective coordination and the benefits from having code managers may help to resolve this, we also need to ensure that Ofgem, or any independent decision-making body, has clear decision-making processes that are time bound and supported by clear statutory duties. Industry discussions can also often be unduly influenced by divergent commercial interests of code parties. It is therefore important for code managers to be sufficiently independent, supported by appropriate expertise and able to ensure decisions, or recommendations, are founded on a sound basis with clear benefits to competition, consumers and any applicable relevant objectives.

- For material policy issues, the decision body, whether it is Ofgem or a separately created entity, must be sufficiently independent from the industry and make decisions that are consistent with a clear set of statutory duties. Along with this, the process of decision making for material policy issues needs to be clear, open to scrutiny, and subject to appropriate appeal rights.
- Appeal rights are an important element of an effective governance structure. It is appeal rights that ensure that regulatory decisions are made consistent with statutory duties and so ensure the quality of decision making. For appeal rights to have this effect, they ideally should have a consistent form across all codes and be triggered through a similar, clearly understood process.
- In the existing code arrangements some modification proposal decisions can only be legally challenged in the High Court through the Judicial Review process, whereas others can be contested via the Competition and Market Authority (CMA). Code modification changes will often be complex and technical in nature and therefore any appeal must be adjudicated over by a body with sufficient expertise, or access to such expertise, to be able to engage with that complexity. The CMA and the Competition Appeal Tribunal (CAT) could be used for such appeals. Any appeal process must be accessible to all, or any, impacted party and be a clearly understood process.

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.

We support Model 1 as a proposed change to the overall energy code governance framework. It strikes the right balance in ensuring that energy codes are coordinated and focussed on delivering

¹ <https://www.dcusa.co.uk/change/network-interventions-sla-enhancement/>

the strategic direction whilst retaining the appropriate roles and responsibilities for market participants in governance and decision making.

Under Model 1, the strategic body could be a new independent organisation or become an Ofgem function. Integration into Ofgem's role would allow for greater coordination between their own forward work plan, Government initiatives or, if applicable, any EU led work. Whilst this may not be a fully independent strategic body we would expect the strategic direction to be established in consultation with code managers and market participants and developed in a transparent manner. A separate body could resolve any independence issues but could create an inefficient addition layer of governance and unnecessary complexity around accountability and role.

If Model 2, the proposed integrated rule-making body (IRMB), were to be taken forward then we see the most practical solution being that Ofgem take on this role. This would be effectively taking in-house the overall strategic direction, oversight and decision making for material policy decisions under the codes. Model 2 is likely to further alienate market participants from the code process, leading to less industry engagement and expert input, as well as undermining the elements of code processes that work well under today's arrangements (e.g. self-governance if it is not retained).

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.

As above, we support Model1 as we believe it will best deliver the desired outcomes and be quicker and simpler to deliver.

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

Whilst we fully support code signatories retaining a role in code governance and change processes, it is unclear within the consultation document the extent of their involvement. For example, and as previously mentioned, it appears that self-governance may not exist in the future and the role of code panel and committees is unclear.

3 Providing strategic direction

Question 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?

We are supportive of a strategic direction and believe this could be delivered by a new strategic function, a more consultative body, such as the consultative board previously proposed, or by Ofgem in an extended role to their existing duties.

Our preference would be for Ofgem to adopt this additional role and develop a strategic direction in consultation and collaboration with Government departments, code managers, market participants and stakeholders.

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?

Whilst the objectives and responsibilities for the strategic function appear sensible, it is unclear how these interact, or replace, the responsibilities and objectives set out in the codes.

The full scope and activities of the strategic function have yet to be defined making the size, and potential cost, of such a function difficult to determine.

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?

This new strategic function would be carrying out duties and activities that are currently fulfilled by code panels and committees. It is not clear how these arrangements will be impacted and whether only change that is determined to be 'strategic' would be within the new functions remit.

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)?

The strategic function should develop the strategic direction in close collaboration with relevant stakeholders and through consultation with the industry. Depending on the chosen governance model for the strategic function, the strategic direction may require approval from a statutory body or from Government (i.e. Secretary of State).

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

We would expect the strategic function to take a whole systems approach to changes to the energy sector to implement parliament's vision, this should identify inter-related issues and consequential impacts, to avoid these being considered late in the process. We would expect the Strategic Body to go beyond the Government's vision as we do not expect MPs to have a working

knowledge of energy regulation. As a minimum we would not expect the Strategic Body to hinder changes to Codes which haven't been specified by the Government's vision.

4 Empowered and accountable code management & independent decision making

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.

We agree that a code manager should have the additional responsibilities identified in (a) and (c) above but that these should be carried out in consultation with, or under direction from, industry representatives (e.g. the existing or modified versions of code panels / committees).

We do not believe that code managers should be making decisions on changes. Change approval should remain a duty of the relevant change panel / board for self-governance or with the Authority when material or significant.

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?

We support the Retail Energy Code (REC) model where a single code manager will be responsible for several codes (whether those codes are fully consolidated or not). This will facilitate simple cross code coordination within this code group. Where there are cross code impacts outside of a code managers' remit, we would expect to see a fewer number of code managers enabling greater cross code coordination. We would expect the principles and deliverables of the Code Administrators Code of Practice (CACoP) to be embedded within the responsibilities of each code manager to give us a more robust cross code coordination arrangement that CACoP currently provides.

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.

No, the approach to assessing and implementing reform should not differ for each code. However, the extent of reform should be taken forward on a case-by-case basis (e.g. code consolidation shouldn't be an automatic outcome if there is no demonstrable benefit).

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.

No, the code manager should be accountable to code signatories (although we would expect the code manager to have clear responsibilities to act upon direction from the strategic body). Licencing of code managers should not be necessary; the desired outcomes can be delivered through an appropriate contractual model that exists within some code arrangements today.

Please note questions 19- 26 only apply in respect of Model 1 (code manager function and a strategic body).

Question 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.

As above, we do not support the code manager being accountable to the strategic body.

Question 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.

No, we believe that this model should be considered further. Code managers should be competitively procured and sufficiently independent from code parties, particularly where a code party is also the system or network owner that the code relates to. On this basis, the code manager can be accountable and appropriate code panel, committee or executive.

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.

Yes, we agree that the code manager function should be appointed through a competitive tender process.

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.

No, we do not see any benefit in the strategic body establishing the code manager function. The roles and responsibilities should be clearly defined for each code manager in the respective codes and by Ofgem, and the code manager competitively procured.

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.

No, we do not support an existing licensee, or a group of licenses, becoming a code manager. This approach is unlikely to take advantage of code consolidation (or code manager consolidation) or the benefits of competition.

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.

Where code administrators are contracted by the respective code panel or board, the contractual arrangements offer suitable incentive for cost control and ensuring value for money. With broad industry representation on code panels, and the oversight from independent chairs, there are the appropriate checks and balances in place to ensure that code managers can be effectively managed and incentivised to deliver a high quality, value for money, service.

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).

We agree that licensees should not become code managers and should not be able to exercise control of code managers. Existing code administrators, or any other sufficiently independent organisation, should be able to tender to become a code manager.

Question 26: How should the code manager function be funded (for example through licence fees or by parties to the code(s)?

Code manager funding should be managed through charges to code parties with clear budgetary controls and consultation in place.

5 Code simplification & consolidation

Question 27: Are there any quick wins that could be realised in terms of code consolidation and simplification?

The process of consolidating codes is likely to be time consuming and may have little or no benefit (e.g. it may not contribute significantly to the achieving the desired outcomes). We see greater benefits in the creation of code managers that are then responsible for a group of codes. For example, the codes could be grouped by industry sector (e.g. retail, network, settlement) and a single code manager appointed.

In terms of code simplification – this could be carried out by existing governance bodies, with coordination via CACoP, ahead of any code, or code manager, consolidation. For example, the codes that will be consolidated and managed by the REC code manager should be reviewed and simplified prior to consolidation. The code manager should then be able to consolidate common aspects of codes (e.g. accession process, credit cover, modification procedures) to provide a single interface point for code participants.

Question 28: How many codes would best deliver on the outcomes we are seeking under these reforms?

As mentioned above, the review should carry out further analysis into which codes could be brought together and managed under a single code manager. In the retail sector, the REC is the test bed for code consolidation and, if successful, a further step may be to then consolidate code management of the REC and the Smart Energy Code (SEC) (as the SEC is closer to the retail end of the market than other codes and is also dual fuel).

Other codes could be grouped by activity or fuel type, but further work and analysis would be required to assess the benefits.

Question 29: Which option (one code manager versus multiple) would best deliver on the outcomes we are seeking under these reforms?

As above, we are supportive of multiple code managers that are each responsible for several related codes. We would expect there could be three or four code groups established from the eleven codes within scope and at least three organisations engaged in code management to ensure the benefits of competition continue beyond the procurement stage.

Question 30: Which of our consolidation options would best deliver the outcomes we are seeking to achieve? Please provide evidence for your examples.

We are supportive of both Option B and Option C being considered further as part of the review. We do not believe Option A (consolidated single code) should be considered any further.

Question 31: Do you agree that the codes should be digitalised? Yes/No/Don't know. Please explain.

Yes, we support the digitisation and digitalisation of the codes. We welcome the work that code bodies have started already in this area and believe that this should soon start to deliver benefits and help to deliver some of the desired outcomes.

6 Monitoring and compliance

Question 32: What role should industry have in monitoring code compliance or making decisions on measures needed to address any identified non-compliance?

There should be appropriate code assurance processes in place within each code and these should be overseen by the relevant code manager. It may be appropriate for codes to include provisions for sanctions and remedial plans to be established when there are cases of poor performance or non-compliance. For more material non-compliances, or persistent poor performance, the non-compliant party should be referred to Ofgem.

Question 33: Which of the two models we propose would better facilitate effective monitoring and compliance arrangements? Please explain.

Model 1 is the most appropriate way to better facilitate effective monitoring and compliance arrangements. We would expect the necessary provisions for compliance monitoring, and any remedial action or sanctions, to be set out in the relevant code.

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.

Imposing measures for non-compliance should remain an Ofgem responsibility. Therefore, this should only be transferred to the IRMB if Ofgem's duties are extended and they take on the responsibility for being the IRMB. As above, we do not recommend Model 2 as the preferred option.

END