



Reforming the Energy Industry Codes - response form

The consultation is available at: www.gov.uk/government/consultations/reforming-the-energy-industry-codes

The closing date for responses is: 16 September (23.45)

Please return your completed form to the following email addresses. As this is a joint review, please ensure you respond to **both** email addresses below.

Email to: codereform@beis.gov.uk & industrycodes@ofgem.gov.uk

If you would like to send a hard copy then please send copies to the following. As this is a joint review, please ensure you send copies to **both** postal addresses below.

Write to:

Code Reform - Electricity Systems Team
Department for Business, Energy and Industrial Strategy
Abbey 1, 3rd Floor,
1 Victoria Street
London
SW1H 0ET

Ofgem
Industry Code and Licensing Team
Office of Gas and Electricity Markets
10 South Colonnade
Canary Wharf
London, E14 4PU

BEIS and Ofgem will share with each other all responses that are received.

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Please be aware that we intend to publish all responses to this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. Please see the consultation document for further information.

If you want information, including personal data, that you provide to be treated as confidential, please explain to us below why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we shall take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An

automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential ☐

Comments: [Click here to enter text.](#)

Questions

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Please select a box from the list of options below that best describes you as a respondent. This allows views to be presented by group type.

	Respondent type
<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input checked="" type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Question 1 [page 17 in consultation document]

Do you agree with our four desired outcomes for the code governance landscape by the mid-2020s?

☒ Yes ☐ No ☐ Don't know

Please explain.

Comments: DCC's mission statement is to help the UK move to smarter, greener lives and we consider that the first desired outcome [**Forward looking, informed by, and in line with wider industry/government strategic direction and the path to net zero emission**] of this review fits exactly with our goal. Changes are needed to achieve this goal and the challenges the consultation cites are ones that we have experienced. Better articulation of the goals of

government and the protection of future customers by Ofgem are well explained in this first outcome. Regarding Outcome 2 **[Can accommodate a large and growing number of market participants, with effective compliance in an inter-dependent system]**, DCC ensures all decisions and actions support competition. We would observe that, whilst we have noted a fall in the overall number of Supply competitors in recent years, we would consider competition has improved whilst not increasing the overall number of competitors. Outside of the Supply market, a greater number of innovative firms, such as aggregators, community networks, battery storage operators, competing on a level playing field with traditionally licenced firms is positive and needed to meet the Challenges of Outcome 1. We would suggest clarification of what type of market participants are envisioned. Outcome 3 **[Agile and responsive to change, while able to reflect the commercial interests of different market participant]** is of particular interest as DCC has struggled with the challenges embodied in this Outcome. DCC has encountered persons opposed to change within the Code governance processes who seek to use the Codes to frustrate legislated change and slow progress on system development and change. Additional expertise and incentives would be welcome. We note the Significant Code Review Process can be slow. Regarding Outcome 4, **[Easier for any market participant to understand the rules that apply to them and understand what these mean]** we concur the number and complexity of the codes has proved extremely difficult for many of our customers, particularly small Suppliers and independent networks. In addition, we do not consider that enforcement is correctly incentivised in the existing structure. Code administrators and their staff are incentivised by customer service ratings, with no measure for code compliance, leading to a preference for excellent relations instead of compliance.

Question 2 [page 17 in consultation document]

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.

Comments: We consider the case for reform is clear. It will be important, however, that the costs of changes are considered against the benefits of the new framework and that these outweigh the costs of change. We note that the consultation does not make reference to the large-scale changes happening with programmes such as the introduction of an ESO, Faster Switching and Market Wide Half Hourly Settlement. Some of these large-scale changes would benefit from all overhaul of code governance, others less so. Depending on the consolidation framework chosen, the large scale of text changes necessary within the BSC and other codes for the full introduction of half hourly settlement would provide an opportunity to concurrently change those codes involved as well as reducing compliance risk for Parties. We also note that the safe and secure distribution and use of energy will necessitate a large number of detailed rules and regulations. The codes are used as multilateral contracts and parties to the contracts helped draft them, so we do not consider that there can be a significant reduction in the overall number of rules through consolidation and simplification. For example, the SEC is the only contract DCC has with its customers- the charging methodology and billing processes, service standards and requirements reside within the SEC.

Question 3 [page 18 in consultation document]

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

Comments: DCC has submitted its costs for code compliance and change development as part of the annual price control. We calculated in 2017 that attendance at all mandatory workgroups and industry forums required approximately 89 FTE days per month. We note at present BEIS runs SMIP related forums alongside Smart Energy Code (SEC) mandated change meetings. Each modification to our systems proposed within the scope of the SEC requires resourcing to be provided in its assessment, development and implementation, such as: architects time in workgroup, our service providers' preliminary review (covered by contract but in greater numbers than anticipated), service providers' supply chain consultation, full impact assessment (costed and charged to DCC), DCC architect review and approval, DCC presentation to work group and the management of any changes requested. During workgroup discussions, it is often well known that industry do not all support or agree on whether there is an issue, and in many cases, issues raised only relate to certain Parties or categories of Parties. This will often lead to disagreement as to whether the correct solution has been chosen. In addition, no overall direction has been provided as to whether industry mandated change should be prioritised or subordinated to legislative work, such as that being done to enable SMETS1 devices to communicate via the DCC system. As part of our price control we have provided detailed and costed evidence open governance costs for computer system development. It has previously been noted that the present governance process for change requires significant development and impact assessment resources to be expended on changes that the Authority is minded to reject. Early communication of 'a steer' would enable existing industry bodies to make more informed decisions about development expenditure.

Question 4 [page 18 in consultation document]

Do you agree with our proposed scope of reform?

☐ Yes ☒ No ☐ Don't know

Please explain.

Comments: We note your explanation for the exclusion of forums such as MaMCoP and SMICoP, but we consider that the reforms should aim to reduce boundaries between traditionally licensable activities and other, integrated, necessary services such as meter asset operators, battery storage facilities, and distributed generators. As such we consider that all energy system regulations and multilateral contracts should be candidates for consolidation. If not, which additional codes or systems do you think should be included/excluded?

If not, which additional codes or systems do you think should be included/excluded?

Comments: All should be within the scope, at least initially, whilst the interdependencies are better understood. Whether efficiencies can be found for consolidation for each should be decided by Parties to each agreement. In particular, the SMICoP and MAMCoP could be added to existing codes (such as the SEC) without significant cost or complication.

Question 5 [page 18 in consultation document]

Are there any codes or systems that we should only apply a limited set of reforms to?

☒ Yes ☐ No ☐ Don't know

Please explain.

Comments: We note the Retail Energy Code is newly drafted and is to serve as a basis for other code changes. We would also like to note that changes to functioning systems, such as Elexon, Xoserve and our own systems entail some risk and costs. Changes to systems should be undertaken after consultation with users and a full cost benefit analysis.

Question 6 [page 21 in consultation document]

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

Comments: **Providing strategic direction, providing additional information as to the commitments, views and opinions of policy makers:** We would welcome additional clarity on direction at a strategic level. Many code change working groups have repeatedly asked Ofgem and BEIS for a 'steer' as to whether a particular change is wanted or will be approved or if a solution is acceptable to government. Better articulation of the direction of government would save development of changes that are plainly not acceptable, or even, not a priority. If these policies were consulted and agreed for a set period of time (years) it would enable all stakeholders to work towards this goal. **Empowered and accountable code management:** DCC supports the move to empowered and accountable code managers. Within the SEC, changes have struggled to progress due to a lack of resources and expertise at appropriate points in the change process. Currently, monitoring and enforcement are not correctly incentivised with code administrators incentivised by customer satisfaction ratings from Parties, rather than overall compliance. **Independent decision-making:** It should be acknowledged that considerable industry expertise sits within Parties, who carry out the tasks described in the codes every day. This expertise is currently utilised through voting and the development of change. We are concerned that the new model does not fully incentivise companies to share their employees' knowledge to the fullest. In addition, the current structure of industry voting for independent representatives on Panels gives individual companies 'buy in' to the governance process and the decisions it produces. Without this there is an increased risk of challenge through the CMA, Judicial Review or other court action. **Code simplification and consolidation:** We consider that code consolidation, to a single website, and searchable is an 'easy win' without downside beyond the initial set up cost. Full consolidation of the text of the codes will require extensive legal advice and Party review, possibly through a 'page turn' exercise. This will incur significant costs and must be weighed against the projected benefit. At present, DCC is principally involved in the SEC, with periodic review of other code changes. We do consider that our regulatory burden for the codes would increase if all codes were to be consolidated, as it would be risky for us to exclude code regulations and changes from internal review which previously we were not party to. The level of technical detail in codes can impact agile change as a high level of detail can quickly become redundant by technological change. We would be happy to provide evidence into this issue, based on our learnings through SEC processes, as we are currently undertaking in support of the developing REC.

Question 7 [page 21 in consultation document]

Do you agree with the two broad models outlined? Please provide reasons for your position and evidence where possible.

Comments: We agree the models outlined are each capable of operating. Our concerns lie in the placement of DCC Systems within 'IT Systems' section of the models; distinct and distanced from the Strategic body and industry, whom we consider to be our clients. At present Elexon systems sit within the BSC code administrator. We work closely with SECAS,

the code administrators for the SEC. Please note that whilst this work is in part due to the delivery of government mandated projects, it is necessary for the ongoing democratic operation and maintenance of our system. The SEC committees are the main feedback mechanism for our customers, and we require their consent for many routine actions. For example, the SEC requires us to consult committees such as the Security Sub Committee within very limited timeframes in emergencies. Or if an outage is required for maintenance or 'patching' (a small change to security settings due to a new threat), approval must be gained from either the SEC Panel or one of its sub-committees. The current level of detail does not provide enough information on whether the Strategic Body will be equipped to handle these issues and processes with haste.

Question 8 [page 21 in consultation document]

Which model do you believe will best deliver on our desired outcomes? Please explain.

Comments: Our experience of the code change and code governance leads us to consider Model 2 to provide additional benefits versus model 1. We do not see evidence of any additional benefit of 'outsourced' Code manager(s) within Model 1 which we consider retains risks of misaligned incentives and issues that are currently occurring, unless the selection and overall management of the code managers is handled differently by the Strategic Body. In addition, it is our view that for the full benefits of strategic direction to be realised, direction to prioritise, halt or raise modifications is best handled within one organisation, without competing incentives, goals and relationships. DCC's experience sits largely within shared system design, development and implementation. We firmly consider that additional Strategic oversight could have reduced misdirected effort and investigation.

Question 9 [page 21 in consultation document]

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

Comments: We understand the case for change. DCC is not directly impacted by this change as we do not have voting rights in any code. We note that the SEC, like so many other codes frequently involve 'networks versus suppliers/ shippers' voting which encourages scrutiny through debate and ultimately forces compromise for a change to be approved. Our concern is whether independent decision makers whose companies are not directly impacted by change, will have the in-depth expertise to be fully able to evaluate change and have the understanding to spot unintended consequences. We have concerns that the role of code signatories proposed will not be sufficient to elicit best expertise and advice from them. At present the ability to raise, develop and implement a modification is a key component of industries empowerment and ownership, and the protection of competition in the industries' segments covered by the codes. We have concerns that the lessening of proposer rights would in effect silence some Parties.

Question 10 [page 29 in consultation document]

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.

Comments: We agree there is evidence that a centralised strategic function would provide benefit. A single strategic function would provide efficiencies in the delivery of such advice.

At present Ofgem provides some strategic direction, albeit from the perspective of an economic regulator – for example, incorporating many new objectives into both RII0 and RII02. The Committee for Climate Change, under the auspices of BEIS, set carbon budgets and through reports like the Stern Review, strategic climate change direction. Multiple agencies such as the Energy Saving Trust, Catapult and Citizens Advice provided strategic thinking on other issues. We would welcome more clarity on which aspects of these roles will move to the new body. The scope of the Strategic body risks becoming overwhelmed as changes to transportation energy sources, nuclear power risks, and fuels such as hydrogen remain unresolved.

Who is best placed to fulfil the strategic function and why?

Comments: There are limited options amongst the existing bodies. We believe that the Electricity System Operator is not suitable due to its establishment for electricity distribution and balancing and taking on the administration of provisions set out in gas and Smart codes would potentially present a difficult transition. We would envision a fully independent body, possibly akin to Ofgem e-serve is needed to deliver this work as described. We do not consider there would be a regulatory conflict to Ofgem taking on this role.

Question 11 [page 29 in consultation document]

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?

Comments: We agree with the objectives. **Steering changes to the codes to deliver a smarter, more sustainable energy system that best protects the interest of consumers** is perfectly in line with DCC's mission statement and articulates the overall government policy. The responsibilities included with this objective are in line with government policy and competition. As previously noted, we would welcome early 'steers' on competing policy objectives as this would reduce overall resources required to investigate change. **Ensuring codes and code governance remain agile:** DCC has earlier in this response expressed the difficulties we have encountered making changes to the SEC in an agile way. We welcome proposals for the strategic function to have a 'holistic market-wide perspective on codes and related IT systems. We note that the codes are over 20 years old and, besides periodic Code Governance Reviews, no overall review has looked at improvements to them across the piece. It is important that given the pace of technology change, the need to have a roadmap is a consideration of the strategic body. **Unlock innovation:** DCC is committed to innovation and is required to facilitate innovation in our Second Enduring Licence Condition. We aspire to enable and implement the change needed to bring about smart networks and incorporate new technologies. We do not consider additional objectives or responsibilities necessary. We have concerns that the scope of ongoing operations, maintenance and development of IT systems is not detailed in this model, so we are unable to comment on incremental innovation and change. Further detail on the process for customer feedback for small change and technological updates is needed.

Question 12 [page 29 in consultation document]

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

Comments: We have concerns the new model will struggle to draw out asymmetrical information such as cost data and impacts on competition, and draw on the expertise of industry. We fear the unintended consequence of both models is disengagement of industry, particularly Suppliers, from the codes. Many functions, such as the Elexon system are

currently owned and operated by their Parties, so new funding arrangements, and ownership of intellectual property may need to be determined.

Question 13 [page 29 in consultation document]

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)?

Comments: We consider that the strategic direction should be developed with industry, mindful of costs, and consulted upon, in a way that ensures that changes of political direction do not lead to wasted investment. The direction should be set for a sufficient amount of time to allow for investments to be made and realised, much like the terms of price controls or indeed carbon budgets. Like the Feed In Tariff and Renewable Obligation implementation should not 'pick winners' but set a target and incentivise competition to meet it. It will be important that there is alignment between the direction identified by the strategic body and the objectives set for regulated businesses through their periodic price controls.

Question 14 [page 29 in consultation document]

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.

Comments: We are not aware that Ofgem's objectives are likely to change from their current priorities, so the protection of consumers will remain key to its, and the government's agenda. The Licences, as well as Ofgem's duties already provide protections and investigative powers for the protection of vulnerable consumers. For many years Citizen Advice has requested that all industry code changes provide evidence on exactly how the change would impact on energy consumers, and we believe that this request should be agreed to or at least seriously considered. If this information were included as part of any change request, the costs to consumers could be measured by the decision makers against the vision of government. Without the full scope of the Strategic Body being spelled out, we are unable to comment further.

Question 15 [page 36 in consultation document]

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;

☐ Yes ☒ No ☐ Don't know

b. making decisions on some changes, or making recommendations to the strategic body; and

☒ Yes ☐ No ☐ Don't know

c. prioritising which changes are progressed.

☐ Yes ☒ No ☐ Don't know

Please explain.

Comments: (a) At present not all codes have the code administrator manage the oversight of legal drafting (in the UNC each network takes the role in turns). The competition between legal drafters used within the UNC shows efficiencies are not accrued by using one firm exclusively. Independent analysis of changes is required but, in our view, is not properly incentivised through current arrangements with code administrators, (whose success is measured against customer satisfaction ratings) which disincentivises code administrators to call out issues and anti-competitive proposals. At the same time, expertise sits within the code administrators and the ability to make housekeeping changes should not be cumbersome. (b) No comments (c) Due to the complexity and size of our system, testing change is costly. This means that not all requested changes can be made in any 1 release or possibly any one regulatory year. The current code structure, without Strategic oversight, provides no codified mechanism for prioritisation. Whilst we can appreciate that policy makers would like to concentrate on certain changes, such as those within an SCR, the codes are laid out to allow any Party to raise any change. These changes can be proposals to rectify issues with the functioning of an IT system, or perceived unfairness towards a certain type of business model or energy consumer. The ability to prioritise will limit the ability of Parties to raise issues and have the issue investigated and decided by the Authority. A requirement for fairness in prioritisation could be a licence objective of a code administrator.

Question 16 [page 36 in consultation document]

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?

Comments: We consider quality IT development and implementation is only possible with good communication between the system developers and 'the client'. The client at present is industry, facilitated through the SEC, its administrator SECAS, Ofgem and BEIS. We consider that the model of code administrator/ system manager as in the case of Elexon shows greater efficiencies than the separate bodies of DCC and SECAS. The Strategic body would be more capable of determining what is necessary and to prioritise change, but requires a high level of trust from all parties, as well as detailed technical knowledge. This might be best served by a licence for the code manager. We consider some sort of end-to-end system view is essential to allow oversight of ongoing operation and maintenance of our system, including security upgrades and technology refresh.

Question 17 [page 36 in consultation document]

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.

Comments: Whilst the DCC Total System is larger than other systems, we do not consider that operating different approaches for each code or system would be economic or efficient, and may not even be feasible. There is no evidence that oversight of Project Nexus work, or the planned transformation of Elexon systems require major differences in approach

compared to oversight of the DCC system, except perhaps in scale. Any differences remaining between codes and system governance will reduce the benefits of consolidation.

Question 18 [page 36 in consultation document]

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.

Comments: The current regime of code administrators being accountable to Panels and Parties has resulted in many of the issues detailed within this consultation. Properly set out requirements in a Licence or contract with correct incentives for the desired outcomes can be constructed from the work already done on desired outcomes.

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

Question 19 [page 36 in consultation document]

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

Comments: Not that we know of.

Question 20 [page 36 in consultation document]

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.

Comments: It may be possible to enable a 'User Champion' or Party Ombudsman which would raise and set out the grievances of users of the codes. Like the DCMF or Ofgem's Innovation SandBox, there could be an industry led forum for identifying and championing issue led changes. Accountability is key avoidance of legal challenge for decisions.

Question 21 [page 37 in consultation document]

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.

Comments: We consider a tendering process or other competition would allow innovation and useful competitive forces, therefore providing an evidence for an appointment decision. This would be a public procurement and should follow the rules set out for such.

Question 22 [page 37 in consultation document]

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.

Comments: Given that code administrators already exist in the current arrangements, establishing a new body/ bodies would seem to duplicate existing structures and lose the benefit of outsourcing the code management role. It might be more efficient to simply adapt the current terms of reference to meet the new requirements placed on the code administrators by the strategic body

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.

Comments: : Alternative approaches to funding will be necessary for any change to the current system. A consolidation of the codes would require a change to the funding arrangements. At present many code administrators, their systems and intellectual property are owned by Users, Parties or industry via some other mechanism, so this will need to change. Accountability of a newly formed organisation could be more transparent due to the lack of historical 'ways of doing things', relationships and ties to existing parts of industry. A new organisation would need to set up governance processes in line with the new desired outcomes and ways of working, potentially allowing it to completely break from the issues identified in the beginning of this consultation.

Question 23 [page 37 in consultation document]

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

☐ Yes ☒ No ☐ Don't know

b. requiring a licensee (or group of licensees) to create the code manager?

☒ Yes ☐ No ☐ Don't know

Please explain.

Comments: (a) We would consider ourselves, as the holder of the Smart Metering Communication Licence, able to take on the role of code manager, in a way that is economic and efficient in a way that is consistent with our current Licence Objectives. (b) All of industry

ownership is the current model in energy as well as water and sewage services and telecoms. We see benefit in a group of licensees providing input to a tendering process for a code manager as licensees have extensive experience of managing code administrators and the code processes.

Question 24 [page 37 in consultation document]

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.

Comments: Through the existence of a range of codes each with their own code administrators over more than two decades, much historical data about the costs of code administration is available. Except for technological progress and office space prices, this is not a case of asymmetrical information. We do not consider the size and scope of the code manager to provide the critical mass to make a price control regime efficient. The reporting for a price control or a budgeting process, like those undertaken in budget setting for the current code administrators, would reveal sufficient information to provide savings. We consider that budget setting, with strategic direction to prioritise changes, could deliver savings.

Question 25 [page 37 in consultation document]

Are there any factors that:

a. would stop parties (including code administrators) from becoming a code manager?

☐ Yes ☒ No ☐ Don't know

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)?

☒ Yes ☐ No ☐ Don't know

Please explain.

Comments: We do not consider that licensees in a competitive market should be suitable to be code managers. For example, British Gas or UKPN would provide significant CA98 issues. But licensees such as our own (DCC), or NGET, NG ESO and NGG would not be subject to competition issues and therefore we do consider there to be concerns with these licensees acting as Code Manager. Also, the ownership and operation of Elexon and MOSL have shown that all licensees can exercise control over code administrators and systems with good effect.

Question 26 [page 37 in consultation document]

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

Please explain.

Comments: At present all codes are funded by their Parties or equivalent. Ofgem is funded by a Levy which is quite similar to the principles of the DCC Charging Methodology. We do not believe the funding for this body should come from central funds, therefore some form of Levy or use of system charges will be required.

Question 27 [page 44 in consultation document]

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

Comments: Yes. At present, only the Ofgem Industry Codes internet page provides links to all code administrators, and then most codes must be found and downloaded. One central repository would be a quick win. In addition, simplified summaries – possibly even just chapter titles for each code, would help readers trace an issue or regulatory subject across multiple codes. Also, better cross referencing would be low cost and very helpful. On simplification- we are aware the UNC looked to move its code to 'process based', more like the REC, some years ago. It was concluded that the change was neither cheap, fast nor easy. We would see that larger scale changes of codes in concert with large changes- such as updating the DCUSA and BSC with MHHS could provide efficiencies.

Question 28 [page 44 in consultation document]

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

Comments: As a dual fuel organisation, we see merit in one code. We also see that your model of electricity, gas and retail would allow us to concentrate our compliance efforts on the future REC with more limited review of technical specifications. It is our view that simplification and consistency is more important in terms of realising the outcomes of this consultation, one very large code, or 3 large codes covering the entire industry, that are not clear and consistent, would be less efficient than a larger numbers of small codes that are more uniform in their governance, language and cross referencing.

Question 29 [page 44 in consultation document]

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

Comments: The years of operation of the CACoP has not brought about the cross code working that was hoped. Whilst Code administration may have room for innovation, the task is similar across all codes and could provide economies of scale with one central code administrator. Beyond this, the benefit of staff learning other codes, being able to aid smaller parties with knowledge of other codes, as well as joined up thinking on governance and SCR-scale change leads us to consider one code manager model superior.

Question 30 [page 44 in consultation document]

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

Comments: We consider Option C to provide most Parties with the most efficiencies. Option B, whilst being efficient for networks, would mean DCC would be party to all 3 codes. Option A, as we have stated, would provide the benefits of full harmonisation, cross code working, single governance process. The drawback is a very large code, large sections of which do not apply to some Parties but will require all Parties to be familiar with. Therefore, Option C would allow essentially technical electricity and technical gas regulation to sit together with experts developing a detailed understanding of each, and all retail focused regulation in one place. The smallest entities in the energy market are new Suppliers, and they have the ability to cause significant issues for consumers if they do not understand the regulation they are operating under. This set up would reduce the barrier to entry that the codes currently present.

Question 31 [page 44 in consultation document]

Do you agree that the codes should be digitalised?

☒ Yes

☐ No

☐ Don't know

Please explain.

Comments: All codes are available online and searchable, just not in one place. The discontinuation of page numbers is not helpful. Golden thread technology would be helpful but we fear it would be difficult and costly to implement. It's important to note that code versions, valid on specific dates, are used in commercial court proceedings as legal documents instead of a contract, and therefore large-scale changes should not unduly complicate this process.

Question 32 [page 47 in consultation document]

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

Comments: At present companies operating in industry have the options to sue a counter party for failure to comply with the code as contract, and/ or report the issue to Ofgem and the code administrator. We do not envision these large infraction enforcements changing considerably. Infractions that do not impact on other parties must be proactively identified and enforced against by the code manager(s). We note that Ofgem, as part of its Licencing Reform workstream, is reviewing the monitoring Suppliers more closely and the potential take action more promptly. We do not believe code administrators are currently incentivised to act against parties and enforce codes as a new body or Ofgem would be. A central body could invest in automated data mining servicing to ease the burden of identifying-non compliance.

Question 33 [page 47 in consultation document]

Which of the two models we propose would better facilitate effective monitoring and compliance arrangements?

Please explain.

Comments: The consultation outlines the issues with the current system. Though the code manager is a new role, accountable to the Strategic Body it provides additional impetus for monitoring and compliance. Both Models provide better oversight than at present, but we have no recommendation towards either. Issues with enforcement of certain rules could possibly inform the IRMB and lead to better drafting and decision making. Please note this question only applies in respect of Model 2 (integrated rule-making body).

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Question 34 [page 47 in consultation document]

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.

Comments: At present some codes have the ability to suspend Parties or suspend their voting rights, but this provision becomes more difficult in codes like the SEC where energy consumers are impacted by code suspension of their Supplier. Any penalty impacting on competition or consumers should be referred to Ofgem.

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

No.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☒

At BEIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☒Yes

☐No