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Citizens Advice submission on Code Governance Review Phase 3 Initial Proposals

Citizens Advice has a statutory duty to represent the interests of energy consumers in Great Britain. We welcome the opportunity to provide a submission on the third phase of the Code Governance Review.

Citizens Advice is the consumer representative in the industry code governance framework. We have membership and voting rights on a number of the modification panels and can raise modifications on most codes.

This submission follows our response to your 15 May 2015 Open Letter on industry code governance.¹ We have also discussed the codes with the Competition and Markets Authority (CMA) as part of its Energy Market Investigation - most recently in response to its Provisional Findings.² We do not intend to repeat the detailed points we made there but rather give our high-level views on your initial proposals and comment on developments since our 26 June 2015 submission.

We broadly support your initial proposals. The changes you propose to the Significant Code Review (SCR) process, self-governance, code administration and to the governance of charging methodologies are 'no regrets' reforms that respond to clear shortcomings in the current framework. Although we continue to hold the view that the code objectives should be aligned with Ofgem's statutory duties, your proposal to require modification proposals to explicitly identify and assess consumer

¹ https://www.ofgem.gov.uk/sites/default/files/docs/2015/07/cab_response_0.pdf

² <https://assets.digital.cabinet-office.gov.uk/media/55e6ba08e5274a55ff000010/CitizensAdviceandCitizensAdviceScotlandresp to PFs.pdf>

impacts is a very welcome and meaningful change. This is a change that will make it much easier for a range of stakeholders to follow and participate in the codes and improve the quality of decisions that are made under them.

However as we argued in our earlier submission, the code governance framework will need more fundamental reform if it is to be truly fit for purpose in a new more dynamic and decentralised energy market - a conclusion you also reach in the in the initial proposals document.

At the present time this debate is focused on whether the three remedies the CMA has proposed in its provisional findings will deliver this new code governance framework. We have our doubts that it will, principally because the CMA's remedies appear to be based on what we believe is the false premise that the complexity of the current code framework reflects the inherent complexity of the energy market and cannot be streamlined. In our view this has caused the CMA to see the problem with the codes as one that can be solved by reallocating formal decision-making power from industry to code administrators, Ofgem and a new independent adjudicator. This in our view overlooks, among other things, the difficulties these bodies will encounter in navigating the existing complex and fragmented framework to implement decisions.³

That said, we are open-minded about what a new market governance framework might look like. We recently participated in a forum organised by Exeter University's IGov team where a range of possible models were discussed that have merit and could be examined in more detail as part of an Ofgem led process.⁴ We now look forward to working with you and other stakeholders to develop these and other ideas and deliver a framework that works for consumers.

Thank you for the opportunity to make this submission. Please do not hesitate to contact me if you would like to discuss it further.

Kind regards,

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³ Citizens Advice's detailed response to the CMA Provisional Findings are available at <https://assets.digital.cabinet-office.gov.uk/media/55e6ba08e5274a55ff000010/Citizens Advice and Citizens Advice Scotland resp to PFs.pdf>

⁴ <http://projects.exeter.ac.uk/igov/category/events/igov-events/code-governance/>