



Via email: industrycodes@ofgem.gov.uk

Marion Quinn
The Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

28th April 2016

Dear Marion,

CONSULTATION ON CODE ADMINISTRATION REPORTING METRICS AND PERFORMANCE SURVEYS

We welcome Ofgem's Code Governance Review (Phase 3) Final Proposals and the opportunity to respond to the above consultation.

Gemserv supports the Final Proposals - the outcomes seem well balanced and proportionate to the different codes. These incremental measures should make material improvement to code governance practices, while the Competition and Markets Authority's (CMA) proposed remedies (e.g. licensing) are developed and implemented.

In terms of the quantitative and qualitative surveys, Gemserv supports Ofgem's decision to take a leading role in the management and coordination of both surveys. This should encourage greater consistency and transparency on the measurement of Code Administration performance. Our response to the consultation questions is attached to this letter.

We hope you find our comments useful. If you have any comments or questions about this response, please let me know as I am happy to discuss these further with Ofgem.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "R. Mottram".

Rebecca Mottram
Transformation Senior Consultant

1. RESPONSES TO CONSULTATION QUESTIONS

Question 1. Do you agree that the metrics set out in appendix 1 will provide a useful set of data?

Yes, Gemserv agrees in principle with the metrics as set out in Appendix 1 of the consultation. We would, however, recommend Ofgem further consider the purpose and objective of the questions, and the outcome the metrics are trying to achieve.

It is important to be clear about what it is we are seeking to measure, and the reasons for conducting both surveys. This will avoid misinterpretation for all involved including survey respondents and Code Administrators. For example, are the questions designed to report on the performance of the code, the performance of the Code Administrator that services the code, or the level of engagement by parties in the code modification process?

We have a number of suggested amendments or points that would be helpful to clarify:

- Question 8 – Number of modifications which had their final vote in the period January 01 to March 31, for which legal text was not available in the final consultation:
 - In the supporting guidance, it would be worthwhile stating this is the final vote of the Change Board (or Panel) when determining whether a modification should be progressed to implementation, as some Change Boards, such as the MRA Development Board (MDB), have two votes (i.e. the impact assessment window and the vote on the change).
- Question 10 – Number of times assistance was requested with access and engagement to the code and the modification process in the period January 01 to March 31:
 - There are many ways in which codes provide assistance (formally and informally), such as at industry meetings, emails, helpdesks, phone calls, personal liaison, briefings etc. Code Administrators may interpret different meanings of ‘times assistance was requested’. We recommend the question is rephrased to focus simply on phone calls and email requests.
- Questions 13 – Number of modifications which had their final vote in the period January 01 to March 31, for which an estimation of the implementation costs was not available in the final consultation:
 - Modification costs can include: central systems (IT), code party, Code Administrator, legal, consultancy design, project management etc. To ensure consistency across the codes, it would be worth clarifying what is meant by ‘costs’ in the supporting guidance.
 - Under the MRA and iGT UNC, modifications that require housekeeping changes to documentation have the associated costs embedded within the code administration service charges (and not necessarily stated in modification documentation). We recommend a ‘Not Applicable’ option is added to the question, and also explained in the supporting guidance.
- Question 14 – Number of modifications, implemented in January 01 to March 31, where the central system and code costs were more or less than that advised prior to the final industry vote:
 - Similar to our comments to Question 13 above, the meaning of ‘central systems’ and ‘code costs’ should be explained in the supporting guidance, otherwise it will be interpreted differently by the Code Administrators. In addition, not all modifications impact central systems. We therefore recommend a ‘Not Applicable’ option is included.

Question 2. Are there any other data that you consider should be reported on by the code administrators?

In order to be of most benefit to the industry and inform best practice, under the engagement section, Ofgem may wish to consider drawing out the additional responsibilities of Code Administrators under the Critical Friend role. For example, the education and training Code Administrators provide to parties could be measured by the volume of code specific engagement days or seminars held in the last period.

Gemserv believe these are fundamental to parties understanding of the codes and their compliance to the code requirements, particularly for smaller participants and new entrants, where it is relatively proportionate for codes to do so. The facilitation and measurement of these events should be encouraged across all codes.

Question 3. Is there any additional guidance that is required such that the data provided is consistent across all code administrators?

The metrics should be updated within Code Administration Code of Practice (CACoP) Principle 12, and the supporting guidance included under the CACoP as an appendix. The guidance should be developed alongside the updated metrics to assist Code Administrators understanding of what is, and is not, being measured and, the desired outcome – i.e. it should not be ambiguous. This should encourage consistency of reporting between Code Administrators, including the services provided under the Critical Friend role.

Question 4. Do you think there are any reasons why the code administrators should not continue to pay for the survey?

As explained in our response to Ofgem's Code Governance Review Phase 3 - Initial Proposals¹, Gemserv is supportive of a single qualitative survey, across all codes. We support the need for better transparency on the relative performance of Code Administrators' responsibilities; but, it should be managed efficiently, to limit the consequential charging implications under the MRA, SEC and iGT UNC, and the costs incurred by code parties. We must therefore ensure that the costs are proportionate across each of the different codes.

Gemserv note that survey costs are handled differently between the codes and between the Code Administrators. This may result in difficulties when determining the cost recovery mechanism for the survey. For example:

- Charges are recouped in different ways (i.e. cost pass through or contractually);
- Some costs are embedded within fixed charges with clients under commercially agreed frameworks;
- Surveys differ in terms of whether they are externally procured and/or handled in-house;
- Surveys differ in terms of complexity; and
- Some codes do not have code specific surveys but instead have company-wide² surveys.

We also question the interpretation of 'code administrators should not continue to pay'. It could be argued that no Code Administrator pays for the current survey, as they are either directly (i.e. via commercial agreements) or indirectly (i.e. included in Code Administrators service charges) passed through to code parties.

Under existing arrangements for the MRA and SEC, an annual independent qualitative Customer Satisfaction Survey (CSS) is carried out for each code, with the associated costs shared between code parties. In comparison, the iGT UNC is a relatively small code, so the iGT UNC Panel do not require an annual qualitative survey to be undertaken.

¹ Gemser Response to Ofgem's Code Governance Review (Phase 3) – Initial Proposals, 16th December 2015 - <http://www.gemserv.com/insights/consultation-responses/response-to-ofgem-code-governance-review-phase-3/>

² Company-wide means those surveys undertaken by the organisations providing the code administration services

How these costs are shared matters to code parties, especially if these are disproportionate to the overall code administration charge. If not managed correctly, there could be a disproportionate burden on individual codes, i.e. for a smaller code, like the iGT UNC, bearing the survey costs could represent 10% of its budget, unless a balanced approach is adopted. This has helped informed our view of the preferred option to Question 5.

We must also highlight that, as Gemser operates under the ISO 9001 Standard, and has a continuous improvement philosophy, we also undertake a company-wide survey. Each time we undertake the survey, we ensure it is reviewed in terms of scope and questions based on previous stakeholder feedback (e.g. duration, style, frequency). This means we get the most benefit from conducting the survey, ensuring it reveals useful information which we can use as to inform our business improvements. Gemser recommends a similar approach should be applied to the single cross-code survey.

Question 5. Which of the options set out in this document do you consider is the most appropriate way to fund the independent survey between the code administrators?

Our preferred option is Option 5 (Code Administrators bear a proportionate cost of the survey based on the overall budget of the code administration function, for each code). This option ensures that there is proportionate charging basis for each code, and that Code Administrators do not bear a disproportionate share of the survey costs.

We will however, need to define a consistent approach to what is included within the terms 'overall budget' and 'code administration function'. Subject to defining these costs, we believe this option will be proportionate, should be relatively simple to assess, and transparent to apply. This method would also take into account smaller codes, like the iGT UNC, that do not currently undertake or budget for an annual qualitative survey.

Gemser note that efficiency savings should also be reflective in the cost, with Ofgem undertaking a single cross-code survey. The aggregate cost should not exceed the consolidated cost of the current individual code surveys. Gemser would be happy to discuss the costs incurred under the MRA and SEC with Ofgem.

The reasons we do not support the other options are explained below:

- Option 1 (split equally between the administrators of the 11 codes) – Each code has a different budget for many reasons, including variation of size, number of parties, Code Administration costs, and activities conducted under each code. This option does not recognise the scale and budgetary consideration that applies to each code. Therefore codes like the iGT UNC, with much smaller code administration costs, will be disproportionately impacted.
- Option 2 (split equally between the six organisations that undertake a code administration function) – As highlighted in Question 4, code parties ultimately bear the costs, either directly or indirectly. However, should costs be imposed upon the organisations providing code administration services, there may not always be a consistent re-charging mechanism to code parties as there are existing disparities between funding arrangements. In order to ensure transparency and reduce complexity, the best option should be a simple one that recognises the scale and budgetary considerations that applies to each code, without introducing more complexity into the charging mechanisms.
- Option 3 (split between organisations that administer the 'main' commercial codes) – If the objective is to consolidate the existing surveys, then this option suggests only certain codes bear the cost. If however it is to compare all codes under the CACoP, then each code should be included and therefore bear a proportionate cost. Consequently, we believe a consistent approach should be applied across the codes, and no code (including the MRA, SEC, or iGT UNC) should be excluded.
- Option 4 (split proportionate to the amount each code administrator currently spends on the survey) – All codes undertake different types of surveys according to the needs of the code parties and the services that they are providing. As such, the costs will vary. Splitting the cost according to current spending has some merit, however, the costs could prove difficult to unpick, with some explicitly set out



(e.g. contracted third party), some embedded as part of the contracted service delivery, and for some the embedded costs may be absorbed as part of an overall cost pass through mechanism (either in whole or part).

Question 6. Are there any alternatives to the options set out in this document of dividing the costs between the code administrators that you would favour?

No, as explained in our response to Question 5, we support Option 5.