



Laura Nell,
Code Governance Remedies,
Ofgem,
9 Millbank,
London,
SW1P 3GE

25th January 2016

Dear Laura,

Consultation on Industry Code Governance

Thank you for the invitation to respond to the above consultation. Bristol Energy is an independent supplier of electricity and gas with a business model that has a regional focus on the South West of England, although we supply customers across Great Britain.

Executive Summary

Bristol Energy is supportive of plans to improve the efficiency and accountability of the current complex code change environment. We are not convinced that licencing code administrators and making them answerable to Ofgem as the regulator rather than their industry panels will make a significant improvement in the day to day operation of the change processes. Although there is merit in finding a better way to manage cross-code changes, but do not believe these proposals are the answer.

We warmly support the establishment of an oversight body and the development of a joint industry plan. A lot of changes currently in play are interdependent and call on limited resources such that it is difficult to baseline which changes need to be scheduled in what order. A joint industry plan, properly managed by a form of programme management office run by the consultative board seems to be a worthwhile improvement. However, the consultation did not cover how this body would be resourced and financed. It would serve no purpose if it existed simply as a high level Board, meeting infrequently, with no resource to do the necessary analysis and planning.

If Ofgem does decide to put code management out to tender then it must take all reasonable steps to ensure that all current work, not just major projects are not disrupted during the tender period, and more critically ensure expertise is not lost if the contract is awarded to someone other than the incumbent. At the moment few of the current administrators have in their contract obligation to support handover should they cease to be the code administrator.

We have answered your specific questions below, expanding our response where necessary.

Q2.1. Do you agree that the codes and functions we have identified (i.e. The codes within the scope of CACoP and their associated central system delivery functions) should be within the scope of the new regime?

Although we are unconvinced that licencing code administrators will deliver any significant improvement to the change environment, we agree that all of the functions identified in your proposals should be within the scope

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of the arrangements based on the criteria set out.

Q2.2. Are there any other codes or systems that should be within the scope and if so please give your reasons?

We would support the inclusion of the DTN as we believe it is inefficient for industry to be running multiple communication networks with the DTN, DCC network and other VPN functions such as the TRAS service. It is also a critical function that may delay change if it cannot be agreed to include new data flows.

We believe that Ofgem should look at the current arrangements of the Alt. Han solution and whether this needs to be brought into scope. This process requires suppliers to cooperate to ensure customers can have a smart meter, and that both suppliers and DNOs have access to that data in a timely manner for settlement and DUoS billing purposes.

We also believe that Ofgem should look at the functions currently undertaken by Ofgem e-serve. Suppliers are mandated by licence to participate in obligations such as the FIT, ECO etc., but the central services are uncoordinated with other industry functions but can be impacted by other industry changes, e.g. Export meter reads for FIT using smart meters. Not all these functions will be suitable for inclusion, but they should not be excluded from scope en-masse just because they are currently managed by e-serve.

Finally, due to the time limited nature of SmartenergyGB we believe it should remain out of scope, but it raises the question as to whether industry could sidestep regulated code administration by setting up mutual companies to operate a function which they are obligated to by licence and whether this is acceptable ongoing.

Q2.3. Are there any other factors you think we should consider when making this decision?

Ofgem should consider whether a function or being a signatory for to a code is mandated by licence. If so, then the ability of Ofgem or industry to deliver change in that area is in part dictated by licence. This objective should not on its own bring something into scope, but could be one factor to be considered.

Q3.1. What are your views on our proposed approach of including the code manager and delivery body function in a single licence?

We are supportive of this approach provided that the code manager has the necessary skills to negotiate and manage any outsourced delivery function. This would need to be a key consideration when appointing a code manager. We believe that the current arrangements where the DCC is separately licensed from the SEC results in a sub-optimal delivery compared to the way Elexon manages the delivery of balancing services, where Elexon has responsibility. This is principally because the body agreeing the terms of the contract/licence is the one who then has to manage the contract on a day to day basis.

This also has the added benefit that any significant change is a contractual matter rather than a licence change which should be easier and faster to progress.

Q3.2 What are your views on strengthening the licence of NGET to include new code management requirements rather than holding a tender to identify an appropriate code manager?

As NGET is a principle party in the codes they manage we occasionally sense of a lack of independence, in

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particular when the administrator is asked to procure evidence and data to inform decisions around code modifications, which NGET is keen to promote. It is not always clear to us when NGET is acting as a code administrator or a party to the code.

To this end we would favour the appointment of independent code administrators for the codes currently managed by NGET. This would have the added benefit of allowing Ofgem to remove the administrator should performance not be up to standards required.

Q3.3 What are your views on the merits and drawbacks of the four identified models for competitively licensing code management where applicable?

We cannot see any benefit to be gained from the permissive licence approach and see difficulties in attempting to design a “one size fits all” licence for code administration, without making it a worthless exercise.

The sole provider licence would allow Ofgem to set out detailed licence requirements applicable for each code, included the expected performance criteria it expects them to meet. With regard to who runs the tender, then we believe it is crucial that industry has input into this decision as they will ultimately be the ones who are required to pay the costs, and will consider whether a bidder who has a higher bid, but offers the prospect of better service is worth paying for.

This situation would imply that code panels should run the tender process, but as panels are reliant on their code administrators to actually run the process, and the likelihood being that the current officeholder will be a bidder we foresee a conflict of interest. To this end we believe Ofgem should run the process, but involved industry in the actual decision perhaps by appointment of a representative appointment committee nominated by the relevant code’s signatories.

Q3.4 What are your views regarding which model(s) may be appropriate for different codes, or types of codes?

Whilst recognising that some codes are less complex than others we believe that consistency of approach would be both beneficial to both bidders and industry, including Ofgem who would find the process more efficient. The main difference will be in the complexity of the Invitation to Tender document and responses required in return, this may require a different approach to formulating these documents (e.g. Ofgem may write the less complex ones, but require support from industry for more complex ones) but the process should remain consistent.

Q4.1 Do you agree with the purpose of the strategic direction?

The strategic direction must be customer centric, based not just on what Ofgem wishes to see as the industry regulator, or what has been mandated by the Government or the EU, but also what the industry sees as important to delivering innovation and improved services to customers.

In a period of high change it should also prioritise based on outcome to customers whilst recognising interdependencies between work streams and finite resource both at the code managers and impacted parties.

Q4.2 Do you have any views on how the strategic direction should be developed and implemented?

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It is crucially important that Ofgem consults widely on its strategic direction to ensure it understands what the industry wants to deliver to future customers, the limitations on resource, particularly of smaller parties, and any interdependencies between projects.

The strategic direction should be more principled than prescriptive detail to ensure that it does not need to be continually updated, thus providing industry and code managers with sufficient foresight to plan their resources and budgets, and code parties to understand the costs it will incur from code managers.

Once implemented, it will be important that Ofgem does not add projects to the strategic direction mid budget year without adjusting its priorities appropriately to stay within what the industry has budgeted for that period.

We also believe that Ofgem should look to publish indicative strategic directions for a longer period such as a 5 year plan, rather than one year plans based on each financial year. This will be essential when agreeing to appoint code managers for several years rather than annually.

Q4.3 How much detail do you consider should be included in the strategic direction?

The strategic direction should cover the list the key strategic activities and the significant milestones of each key activity, including where responsibility for that milestone sits. Each key activity should also include a description of the outcome that is expected where possible from a customer centric objective.

Whenever the strategic direction is re-issued, it should include a narrative of the changes from the previous strategic direction so parties understand why new activities have been introduced and which activities have been halted or deferred as a result.

The strategic direction should also be accompanied by a risk register which highlights any significant areas of uncertainty or risk to the objectives. For example, where a process is dependent on the Government introducing or amending primary legislation.

Q4.4 Which specific projects do you consider should be included in the initial strategic direction?

We believe the following projects should be included in the initial strategic direction:

- Smart metering rollout
- Mandatory HH Settlement (Including reform of DUoS charging)
- Future of Retail Regulation
- Code Governance Reform
- Review of embedded benefits
- Better switching programme
- Nexus Review
- EU energy market integration
- Flexible energy system strategy
- PPM price Cap review
- Disengaged database
- Security of Supply
- ECO reform

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Q5.1 What do you see as the core role and functions of the consultative board?

The core function of a consultative board must be to act as a pseudo programme manager. The joint industry plan will be its key output and measurement against this plan its prime purpose. It should highlight interdependencies and bottlenecks for finite resource. We would therefore propose that rather than a consultative Board, Ofgem should set up an industry programme management office (PMO), with an oversight board to oversee the work of the PMO.

Whilst acting in an advisory capacity, it should be able to recommend changes to the plan, when new priorities come to the fore, or an existing project needs to re-plan due to missed milestones. For this reason, we believe the plan must include not just cross-code areas of change, but all significant activities, even if the work is contained within a single code, or is outside codes, but has impact on resources available from parties.

A core function, besides maintaining the joint industry plan will be stakeholder engagement. The industry, in particular the supplier market has become more fractured in recent years, and co-ordinating parties, especially when all parties must be ready for big-bang implementation will be a key function. This may require the consultative board to not just monitor code managers' progress, but in certain cases, participating code signatories as well.

The role proposed for the consultative board suggests that it will need its own secretariat to do the leg work and it is not clear to us, who will provide that service, nor how it will be funded. We believe it should be independent of Ofgem, although it could be answerable to the Authority, to allow it to have honest and open discussions with parties which some parties may not perceive to be possible if this role is performed by the licence enforcement body. Obviously, any party who also wishes to be a code administrator could not perform this role.

We believe the Board itself should include people independent of the industry with programme management experience, so that Ofgem can have confidence that its advice is impartial and based on sound evidence especially if it is highlighting that the current joint industry plan is not achievable and needs to be reset. This will be particularly pertinent if delaying a project is politically sensitive.

Q6.1 What are the main impacts of the proposed new arrangements on existing projects?

One of the key impact of the proposed reforms is that they in themselves add additional pressures on finite resources. In particular, current code administrators will potentially need to divert resources from existing projects to prepare for tendering for code management roles and applying for licences. If this process leads to a change in code manager, then their support for certain programmes may diminish during the handover process.

If the consultative board is successfully implemented, then it is possible that it will propose changes to the current work plans' of various projects. This could have an impact on the delivery of some projects with some delivering quicker and others delivering later.

Q6.2 Would Ofgem's enhanced powers over strategically important modification proposals mean our Significant Code Review (SCR) powers will be obsolete, and will the new powers form an effective substitute? Please explain your reasoning

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Although it would depend on the precise nature of the new powers we believe that the SCR process would be surplus to requirements. However, the SCR process has been useful in its implementation by the development of Target Operation Models and blueprints and we would hope this part of the process would remain as part of the new arrangements.

Q6.3 What are your views on staggering the implementation of competitive applications for licences?

We support the view that running licence tenders should be staggered. This does not mean that those not put to tender first will not see a move to a more code manager role. Indeed, most of the current administrators would welcome the opportunity to demonstrate practical experience of this role in time before their current functions is put out to tender. Code panels are also likely to support their administrators in taking this course of action.

I hope you find this response useful. If you have any queries, please do not hesitate to contact me.

Kind regards,

A handwritten signature in black ink that reads "Chris Welby".

Chris Welby
Head of Regulation