The Voice of the Networks

FAO Laura Nell
Code Governance Remedies Team

February 2 2017

Dear Laura,

Re: Industry Code Governance Consultation on implementing the CMA Recommendations

I am writing on behalf of Energy Networks Association (ENA) in our role as a code administrator. ENA is the industry body for UK and Ireland's gas and electricity transmission and distribution networks, essentially, the 'wires and pipes' that deliver this vital service to our homes and businesses. The ENA is also the Distribution Code Administrator appointed by the Distribution Network Operators to provide the code administration service.

The ENA would like to respond to the recent consultation on implementing recommendations made by the Competition & Markets Authority (CMA) to current industry code governance.

ENA welcome this publication and the opportunity Ofgem has given stakeholders to respond. The ENA welcome amendments to the current industry codes which could help improve practices and aid smaller organisations to access and participate in the market. Additionally ENA would like to highlight that we support customers in participating in, understanding and accessing changes relating to the Distribution Code and will continue to do so.

However, the ENA also recognises a need for code governance to change to ensure a co-ordinated approach to code changes in the coming years. The ENA recognises that the existing model does not effectively facilitate wide scale changes on a cross industry basis. There are clearly defects with the current co-ordination and timely amendments of the commercial codes; the defects with the administration of the technical codes are less apparent and we should also recognise the very different nature and use of the technical codes. But there is overlap, and probably more in the future than in the past, so it is not inappropriate to consider technical and commercial together.

The review was undertaken before the thinking evinced in the DECC/Ofgem "A smart flexible energy system" consultation emerged. The dependency between both consultations and their finding should be considered by Ofgem and BEIS together. The current framework of licence and codes may not be appropriate without a more expansive consideration of roles and responsibilities which is a key consideration. ENA would like to be assured that any modification to the current code governance practices will reflect changes taking place within the industry, including innovation in moving towards a decarbonisation by creating a smart, flexible energy system.

If you have any further questions in relation to this letter, please contact David Spillett 020 7706 5124 – david.spillett@energynetworks.org

Yours sincerely,

David Smith
Chief Executive

<u>Response to specific questions</u>

2.1	*Do you agree that the codes and functions we have identified (ie the codes within the scope of the CACoP and their associated central system delivery functions) should be within scope of the new regime?* We agree that the codes and functions Ofgem has identified (ie the codes within the scope of the CACoP and their associated central system delivery functions) should be within scope of a new regime but any findings from the separate BEIS/Ofgem consultation will need to be considered.
2.2	*Are there any other codes or systems that should be within scope and if so please give your reasons?* All codes that affect the energy market should be in scope. Is there a reason that National Grid's SQSS is not included. The distribution equivalent, P2/6 is under DCRP governance.
2.3	*Are there any other factors you think we should consider when making this decision?* See answer to Q1.
3.1	*What are your views on our proposed approach of including the code manager and delivery body function in a single licence?* The consultation paper clearly outlines the challenges here. We agree with Ofgem that on balance the synergies probably outweigh the disadvantages.
3.2	*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?* No views.
3.3	*What are your views on the merits and drawbacks of the four identified models for competitively licensing code management where applicable?* We do not understand the need to create new licensed bodies for code management. There is no real analysis that demonstrates why the current model has not worked. There are clear observations on the current problems by the CMA, but it is not clear why they

	made the recommendations they did. Given the uncertainty of the response to the BEIS consultation on flexibility, strengthening the status quo arrangements as a short term fix would seem more appropriate.	
	If the proposals in this current consultation are taken forward, then Model 3 seems to be the least inefficient of the four. We are interested, however, in your comment on the drawbacks of this model. We do not understand what you mean by, nor how you size, "smaller codes". For example, we do not know if your thinking would assign the Distribution Code to the smaller category, but we would note that it directly affects every domestic customer, and certainly any customer who is installing domestic PV for example.	
3.4	*What are your views regarding which model(s) may be appropriate for different codes, or types of codes?*	
	Would be comfortable with Model 3.	
4.1	*Do you agree with the purpose of the strategic direction?*	
	Yes we agree there is a case for more co-ordination of code activities, and even strategic development of codes etc.	
4.2	*Do you have any views on how the strategic direction should be developed and implemented?*	
	We agree that better co-ordination of the development of work plans and delivery of change would be immediately desirable. As such, a five year view of code activities is probably appropriate to develop with licensees and stakeholders.	
4.3	*How much detail do you consider should be included in the strategic direction?*	
	We see a need for work plans at appropriate levels of detail for the next five years.	
4.4	*Which specific projects do you consider should be included in the initial strategic direction?*	
	All known projects and likely developments within the agreed time horizon of co-ordination activities.	
5.1	*What do you see as the core role and functions of the consultative board?*	
	Formulation, monitoring and oversight of delivery of the strategic (ie co-ordination) plan. Which would be overseen by Ofgem or indeed a Ofgem function	
6.1	*What are the main impacts of the proposed new arrangements on existing projects?*	
	WE don't see any impacts of the proposed new arrangements on existing projects	
6.2	*Would Ofgem's enhanced powers over strategically important modification proposals mean that our Significant Code Review (SCR) powers will be obsolete, and will the new powers form an effective substitute? Please explain your reasoning.*	
	Without knowing fully what these enhanced powers are, or even if they will be granted, it is very hard to answer this question – we should answer it once it becomes clear what the strategic and legislative response from BEIS is.	
6.3	*What are your views on staggering the implementation of competitive applications for licences?*	
	We do not believe that a new licensed body is needed.	