

Laura Nell
Office of Gas and Electricity Markets
9 Milbank
London, SW1P 3GE

Energy UK
Charles House
5-11 Regent Street
London, SW1Y 4LR

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Dear Laura,

About Energy UK

Energy UK is the trade association for the GB energy industry with a membership of over 90 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry from established FTSE 100 companies' right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 26 million homes and every business in Britain. Over 619,000 people in every corner of the country rely on the sector for their jobs with many of our members providing lifelong employment as well as quality apprenticeships and training for those starting their careers. The energy industry adds £83bn to the British economy, equivalent to 5% of GDP, and pays over £6bn in tax annually to HMT.

Introduction

Energy UK welcomes the opportunity to comment on Ofgem's Initial consultation on implementing the Competition and Market's Authority (CMA) recommendations on Industry Code Governance. The approach to code governance varies across the different electricity and gas codes creating a complex, resource intensive regulatory framework which can be challenging for small and large companies alike. This becomes more challenging when multiple large changes occur across the governance framework without being considered in a holistic manner. Any changes to the code governance framework must seek to simplify the framework and increase accessibility for all market participants, rather than adding further layers of complexity.

Whilst it is positive that Ofgem is considering how best to tackle complex, yet necessary, code change, Ofgem should first ensure that all industry codes adhere to fundamental governing principles such as open governance; the Grid Code and Distribution Code have, for example, not fully embraced the principle of open governance.

Code administrators should already be adhering to the principles in the Code Administration Code of Practice (CACoP) and there should be a mechanism with which to measure how far code administrators are meeting these principles. Ofgem should be very clear on how the proposed changes shall deliver benefits to consumers and promote the CACoP principles, prior to committing industry resource to make the changes and based on the consultation presented, customer benefit is not clear.

Scope of the new arrangements

Energy UK broadly agrees with the scope of the new arrangements. However, our members would like to understand whether there are plans to look at code governance arrangements further over the longer term. It is noted that a substantial number of the European Network Codes are being implemented over the next two years, there is an increasingly changing generation mix, faster switching is on its way and there is a move to greater Half Hourly Settlement, all of which impact the structure and operation of the codes over the coming years. For example, there may be merit in considering whether it is timely to consolidate a number of electricity codes, either similar to that of the Uniform Network Code for gas or

to place the separate codes under the roof of a single code administrator. Ofgem should seriously consider this as an option.

Licensing and competition

The CMA recommended that the Department for Business, Energy and Industrial Strategy (BEIS) make the provision of “code administration (and delivery) services” a licensable activity which would ensure that Ofgem has “appropriate sight of all relevant code development issues”. Energy UK believes that while generally licencing increases accountability, this consultation does not make the benefit of licencing “code managers” clear. Indeed, it is uncertain how licencing will deliver a more coordinated approach to code changes which is going to be critical going forward in order to deliver the transition to a smart, flexible and low carbon system.

There could be value in giving powers to, and licencing a coordinating body to deliver strategic change which would ensure that one body was responsible for harmonizing these changes for driving “code managers” to act in a more cohesive way. However, there is no clear model for what a “code manager” should look like, therefore Energy UK would be interested in hearing from Ofgem after further developing the idea.

Energy UK supports competition in this area in order to ensure that the best suited and low cost solution for industry change management is achieved, however we would like Ofgem to consider further where the costs for procurement of “code managers” would be sourced if Ofgem decided to use the ‘permissive licence’ route, rather than a “sole provider licence”. There are inherent costs associated with procuring services, which the industry would like sight of in advance if this were to be the preferred option.

Strategic direction and the consultative board

Energy UK is supportive of a long term strategic direction being established for the industry to work towards. The strategic direction should be widely consulted upon to ensure that it is robust and representative.

Energy UK believes that having a strategic direction is useful but that it is also important to have a delivery mechanism for achieving the strategic direction. It could also be that the “consultative board” is a part of the delivery mechanism however more detail is required for Energy UK to comment properly on Ofgem’s proposals. It is unclear how the “consultative board” will be resourced and what its role would be. Ofgem’s role in attendance at work group and panel meetings should also remind industry of the strategic direction and provide guidance.

Importantly, the strategic direction should not adversely impact ‘business as usual’ changes that do not form part of wider strategic projects. Ofgem must take into account that the industry has finite resource to deliver change, especially smaller parties.

Energy UK could see how different codes having different objectives could also make achieving cross code change difficult for industry. Energy UK would therefore support further work looking at whether the codes’ objectives are fit for purpose and whether there could be future alignment; for example, whether it is worth having an objective around delivering a ‘customer benefit’.

Moving to new arrangements

Energy UK believes that Ofgem’s enhanced powers over strategically important modification proposals does not mean that the Significant Code Review (SCR) process becomes obsolete, rather these new proposals are an extension of the SCR powers Ofgem already has.

Energy UK appreciates that the code process is industry led, however also supports that sometimes, Ofgem needs to drive change, particularly if we are to move to a low carbon system. Throughout the changes, Energy UK does not want to see the quality of service fall as a result of work being undertaken on licensing, but is ultimately supportive of further scrutiny.

Energy UK is more than happy to invite Ofgem to a forum or meeting to discuss this in more detail. If you have any questions please contact me at kate.dooley@energy-uk.org.uk or 0207 747 2942.

Kind regards,

Kate Dooley
Policy Manager