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**Re: Industry Code Governance: Initial consultation on implementing the Competition and Markets Authority's recommendations**

Please find attached the Institution of Engineering and Technology's written response submission to the above consultation.

**About the IET**

The IET is one of the world's leading professional societies for the engineering and technology community with more than 167,000 members in 150 countries and offices in Europe, North America and Asia-Pacific. The IET provides a global knowledge network to facilitate the exchange of ideas and promote the positive role of science, engineering and technology in the world.

This submission has been approved on behalf of the IET's Board of Trustees, and takes into account the views of IET Members under the guidance of the IET's Energy Policy Panel and should not be taken as representing in any way the individual views of the organisations for which the panel members work.

The IET is happy to discuss these points with the Ministers or Officials.

Yours sincerely,

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## 1. Introduction

We welcome this consultation on industry code governance. We support Ofgem's aim of removing barriers to change and to achieving a more coherent approach to the coordination of code changes, recognising the increasingly interconnected nature of our energy systems. However, we do have serious reservations about the route that Ofgem is proposing to take.

We understand Ofgem's desire to respond to the CMA's recommendations. But we are concerned that these recommendations were not informed by more recent work, in particular the thinking set out in the joint BEIS/Ofgem call for evidence, "A Smart, Flexible Energy System" (the "CfE"). In fact, this call for evidence is not referenced directly in the consultation.

It appears to us that a process-based solution has been developed to respond to the CMA without a proper analysis of the fundamental problems that need to be solved. Further, the new processes proposed add complexity and bureaucracy without giving confidence that they will deliver the outcomes that we all want to see.

The roles and responsibilities of the parties acting in the electricity system are explored in the CfE. We think that a similar exercise should be carried out across the energy sector. The IET and the Energy Systems Catapult have produced a report<sup>1</sup>, commissioned by BEIS, which identifies the possible functional requirements of a future electricity system. We believe that with this understanding, the re-engineering of the code governance arrangements will have a much better chance of being successful and future-proof. Longer term (i.e. into the 2020s and beyond) it will be important to have appropriate and integrated governance over the whole energy system, including the plethora of devices, services and actors on the customers' side of the meter. Expecting the current framework of licences and codes to be adaptable to that challenge seems inappropriate without a more expansive consideration of roles and responsibilities.

The consultation recognises that stronger leadership will be required to deliver the transformative changes that are expected to be needed. In the past, Government working with Ofgem has provided this leadership; for example, NETA, BETTA and more recently smart metering. We believe that the re-engineering of the code governance arrangements requires a similar approach with BEIS engaged at the outset.

Notwithstanding our reservations, we have tried to provide constructive responses to the questions set out in the consultations below.

## 2. Scope of the new arrangements

**Question 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 can understand how the scope of this work has been decided. If we were in a world of incremental change then this scope would probably be appropriate. However, as discussed above, we consider that the challenges we are facing are of a rather more fundamental nature which requires a different approach.

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<sup>1</sup> <http://www.theiet.org/sectors/energy/resources/fpsa-project.cfm?origin=reportdocs>

We agree that greater co-ordination and strategic vision is needed in terms of sector governance. But we would question whether the CMA review offers the best starting point. We consider that the CMA was focussed on the historic and current electricity market and in some crucial areas, such as the governance of the technical codes, was not well informed regarding their nature and use.

We believe that a much more thorough review of the roles and responsibilities of players in the whole sector (i.e. fully including all the services and interactions behind and across the meter) is required. As such, we are not convinced that the current roles of Supplier, Generator, Network Operators are defined in an appropriate way, and that there is no recognition of the roles of other parties such as aggregators, the specifiers or builders of mass market smart goods.

The contemporary BEIS/Ofgem consultation “A smart flexible energy system” raises questions about the structure of the industry and the roles and responsibilities of industry players. It seems premature to consider the governance of the existing suite of codes until the deeper review of the structure of the industry implied by the BEIS/Ofgem consultation process has concluded.

On a point of detail we are concerned to see that the STC is identified as a NETSO Code. Although NGET provides secretariat services, the STC is jointly owned by all transmission licensees.

**Question 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 electricity market should be in scope.

It seems anomalous that SQSS is not included. The equivalent standard for distribution networks, Engineering Recommendation P2/6, is under DCRP governance and so is included in the review.

We think that Ofgem should reconsider the case for excluding the SQSS.

**Question 3: Are there any other factors you think we should consider when making this decision?**

There would be merit in explicitly considering code ownership as part of this process. The possibility of the code manager becoming the code owner is mentioned but not taken further. There have been many changes since code ownership was first agreed and so this should be revisited, including consideration of sole or joint ownership.

While we understand the concerns about considering code consolidation opportunities, we think this may be a false economy. Given the amount of overlap between codes (and resultant back-off arrangements between codes), there would be value in considering opportunities for more consolidated code arrangements. This applies particularly to the overlap between technical requirements set out in the Grid Code, Distribution Code and STC.

As referenced in our introduction, we believe that the learning derived from the Future Power System Architecture project should provide a key input to this review of code governance. As an example, is it credible to maintain a separation between electricity

transmission and distribution codes in a world in which whole system thinking is taking hold?

### **Licensing and competition**

#### **Question 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 between the code manager and the delivery body mean that the advantages of a single licence probably outweigh the disadvantages. This should reduce the risk that changes to codes are not frustrated by the governance arrangements for the associated core delivery services.

#### **Question 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?**

Tendering will add more complexity, lack of continuity and uncertainty. So we are not convinced that it is the right approach.

However, the basis for different treatment of NGET presented in the consultation document is unclear, particularly in respect of the STC where NGET is one of the owners of a jointly owned document.

There may be a case for different treatment of codes which have a single code owner (Grid Code, CUSC, BSC) but this is not explicitly explored or justified in the consultation document.

#### **Question 3: What are your views on the merits and drawbacks of the four identified models for competitively licensing code management where applicable?**

We are not persuaded that it is appropriate or necessary to create new licensed bodies for code management. The consultation document should have provided an analysis of the failures of the current governance model identified by the CMA (i.e. begin by understanding the problem). This should then have been linked to a justification of how the proposed changes will address them. We think there is a lack of clarity as to why the CMA made the recommendations they did. Also, it appears that Ofgem has accepted them without question. We would suggest that there is a pause in this process so that the response to the BEIS consultation on flexibility can be taken full account of.

Notwithstanding the above, if the proposals in this current consultation are taken forward, then Model 3 seems to be the most appropriate. We are interested, however, in your comment on the drawbacks of this model. We do not understand what you mean by "smaller codes". What criteria would be applied to decide that a code was in this category? 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.

Also, the suggestion that the code panels could run a licence application process appears inconsistent with the current advisory role of members of the Grid and Distribution Code Review Panels.

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

We consider that Model 3 should be used across all codes.

**3. Strategic direction**

**Question 1: Do you agree with the purpose of the strategic direction?**

We support the idea that strategic leadership should be provided for the future development of our energy infrastructures. However, we question whether this objective can be achieved in the way set out in the consultation document. We do not believe that the transformational challenges that we are facing can be coherently addressed by simply providing strategic guidance to the code governance processes.

Code development is subservient to strategic planning. From the tone of the consultation document we have a worry that strategy for code development is being taken as a proxy for overall sector strategic development and we do not support this.

We would be more supportive if strategy at sector level were clearly identified as belonging to BEIS. Code development strategy might also be owned by BEIS but could be delegated to Ofgem.

**Question 2: Do you have any views on how the strategic direction should be developed and implemented?**

As per question 4.1, we are not convinced that strategic direction should be led and developed in this space. 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.

**Question 3: How much detail do you consider should be included in the strategic direction?**

Bearing in mind our responses to questions 1 and 2, it is difficult to respond to this open question. The level of detail required will be determined by the outcomes that you want the guidance to deliver. Any strategy document needs to be clear in terms of both the definition of the required change(s) and also the associated implementation timetable required.

The strategic direction should allow (require) code owners to identify/evaluate a range of possible options for the delivery of code changes needed to facilitate the outcome set out in the strategic direction.

With or without a strategic direction, we see an immediate need for work plans for the code panels/administrators at appropriate levels of detail for the next five years.

**Question 4: Which specific projects do you consider should be included in the initial strategic direction?**

We would expect that all projects that may have code change dimensions should be included.

**4. Consultative Board**

Against the background of our earlier responses it is difficult to respond here but, again, we have tried to be constructive.

**Question 1: What do you see as the core role and functions of the consultative board?**

The new Consultative Board would need, amongst other things, the following to be clearly defined:

- Its role;
- Its accountabilities;
- Its authority to request work by individual code panels;
- Its authority to amend the prioritisation of work plans, and
- Its authority to require information.

We are concerned about the resources necessary for the Consultative Board to fulfil its role successfully. It will draw on a limited pool of suitable people, many of which will already be engaged with code panels. It is common for conflicts of interest to constrain the pool of suitable people. Opportunities should be sought to align (maybe reduce) responsibilities of single code panels if the new Consultative Board arrangements are put in place.

We assume its members will be volunteers. If this is the case, will Ofgem provide sufficient additional resources to allow it to fulfil its role?

One role identified for the new Consultative Board is to provide expert advice to Ofgem. Given the broad scope of codes that have been identified in this consultation as within scope, it is not clear that that all aspects could be sufficiently covered by a manageably sized group of expert representatives.

We consider that careful thought and transparent justification should be provided for the division between Ofgem's role and that of the Consultative Board.

If the new Consultative Board is set up as an advisory body, the possible reset (set out in the consultation document) would not appear to be consistent with the original scope.

**5. Moving to new arrangements**

**Question 1: What are the main impacts of the proposed new arrangements on existing projects?**

We offer some generic points here as follows:

- Transition to new code governance arrangements introduces a risk that changes already in progress will be delayed.
- There is a need for clear transitional arrangements to ensure that the risks of delay are properly managed.

- There may be a need for a “stop and restart” and/or “start again” option for in-progress modification proposals that are not considered to be consistent with the strategic direction.

**Question 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 what these enhanced powers are, or even if they will be granted, it is very hard to answer this question – it should be answered once it becomes clear what the strategic and legislative response from BEIS is.

**Question 3: What are your views on staggering the implementation of competitive applications for licences?**

We consider this as somewhat of a technicality at this stage.

Assuming that a robust case can be made for new licensed bodies, we believe that the most onerous impact of running competitive tenders for all new roles simultaneously would fall on Ofgem. In terms of level of possible interest from providers, it is not clear from this consultation document how commercially attractive the new licensed roles will be.