

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

01 February 2017

Dear Laura,

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

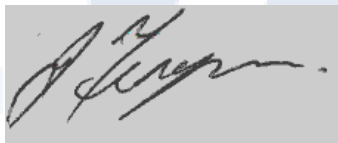
Thank you for the opportunity to respond to your consultation. Northern Gas Networks (NGN) has been supportive of changes to the code administration regime that have resulted from the Code Governance Reviews run by Ofgem. NGN is an active party to the three industry codes relevant to gas transporters – Uniform Network Code (UNC), Supply Point Administration Agreement (SPAA) and the Smart Energy Code (SEC) and our response is in the context of these codes.

In general terms, we believe that changes to improve the accountability of code managers and delivery bodies do not necessarily depend on a new licencing regime. The current arrangements for gas delivered by the UNC and central delivery body differs from the fragmentation of codes in electricity. This in turn makes cross-code interactions less prevalent with the ability to develop some large-scale strategic changes through a single code. We do not see the merit in merging of the relatively small code manager role with that of the delivery body without clear benefits to customers being identified.

We have set out responses to the specific questions in the consultation in the attached appendix.

I hope you find these comments useful and please contact me should you require further information.

Yours sincerely,



Joanna Ferguson  
Regulation & Industry Codes Manager

Telephone: 07883 099616

## **Appendix 1**

### **Consultation Questions**

#### Chapter Two: Scope of the new arrangements

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 systems delivery functions) should be within scope of the new regime?*

As party to the UNC, SPAA and SEC, we believe that all could be suitable for revised arrangements, however, we do not believe that a one size fits all arrangement is appropriate. In the gas sector the differences in scale and integration of code management and delivery varies to reflect current licence obligations for parties.

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

None identified

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

It is important to ensure that the new arrangements do not create a reduced ability to challenge change and potential solutions, and maintains independent delivery of code administration.

#### Chapter Three: Licensing and competition

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

For the UNC, while the delivery systems are mainly operated and maintained by Xoserve, the code administration in terms of the JO is through a co-operative GT arrangement with the staff remaining in the employ of National Grid Gas Distribution. The JO has no direct relationship to the delivery body, and this arrangement creates the ability for the JO to place actions on the delivery body, and challenge solutions through industry code governance. Merging these into a single body may remove an element of challenge on the delivery body, however, the revised Xoserve governance and funding arrangements will provide this through wider industry engagement.

In the case of the Smart Energy Code (SEC), and the licensing of the Data Communications Company (DCC) as a new code, the arrangements were designed in this manner. To amend the existing arrangements for other codes more structural changes to organisations may be required to replicate this model and this may impact on the ongoing delivery of services and cause disruption to in-flight change.

For the ownership of the codes to including the system delivery be placed with code managers would be a substantial change for the UNC where the JO is a relatively small function, whereas the delivery systems are more substantial and are currently undergoing significant changes in governance and funding to create a wider spread of influence. This dilution of influence and control from GTs through Licence to now include other industry parties does not seem consistent with the desire by Ofgem to more directly control delivery bodies through code managers.

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

NGN is not a party to these arrangements, therefore not in a position to comment.

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

Permissive licensing would appear inefficient as it would be likely to lack specific enforceable elements. It would be likely that more organisations than there are industry codes would consider code management an opportunity, following the completion of the tendering there could be numerous organisations holding licences without being active in the code management arena.

A sole provider licence would enable better enforcement by means of more specific licence obligations which set out the requirements for code management and delivery. This arrangement would be more likely to be able to be code specific which would allow for a more flexible arrangement which better aligns to the current differences between code management and delivery.

Ofgem would be the logical party to undertake the tendering activity as the party who would award and enforce the licences. Given the current changes that are being delivered for the UNC delivery body, Xoserve, the new licensing regime should take account of these developments and the wider industry involvement on both day to day delivery of code services and investment for the future.

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

NGN believes that using the same model – model 3 for sole provider licences procured by Ofgem would work for both the UNC and SPAA. The SEC arrangements already appear to meet the licensing model suggested by the CMA.

#### Chapter Four: Strategic direction

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

NGN agrees that a strategic direction set by Ofgem with industry involvement will help industry assess relative priorities where there are considerable levels of change congestion.

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

We believe that the strategic direction needs to be set with a suitable forward timeframe to avoid piecemeal development of larger scale projects. The current Change Overview Board, while not formally constituted, does provide a forward horizon that shows potential areas of change congestion, and provides insight into the strategic direction of the gas industry. This is currently focussed only on the central gas delivery systems, and for parties with cross energy interests a broader view of this would be useful.

It is important that the industry is engaged in setting the forward work plan, and that significant projects are identified in terms of scale of impact as early as possible.

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

While it would be impossible to have all projects fully scoped, the strategic direction should provide enough detail to identify the main components, and benefits that the changes are intended to bring. It would not be appropriate for all industry code changes to be included, however, it should be able to identify where a large volume of industry code change creates a peak in change delivery.

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

Current gas projects that would have benefits from being included in a strategic direction would include Project Nexus, Xoserve Funding, Governance & Ownership review, Priority Service Register changes, Faster Switching and delivery of EU requirements. These projects are not all cross-code, but are of significant scale to need to be actively managed to enable co-ordinate delivery across industry.

Chapter Five: Consultative board

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

The consultative board should be administered by Ofgem with senior level involvement from a broad range of industry parties. The board should provide an opportunity to challenge the relative importance of large scale projects, and to provide insight into the potential consequential impacts of changes, and interactions between projects. By engaging at the appropriate level and providing approval of the overall strategic plan this board could help drive individual behaviours in industry codes to minimise disruption to delivery of larger scale change.

Chapter Six: Moving to new arrangements

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

Most of the existing large scale project relating to central gas systems are now in their final delivery stages. The Faster Switching arrangements and further evolution of more frequent settlement would benefit from a co-ordinated delivery to ensure that gas remains a key part of the future energy mix.

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.*

Assuming that the strategic direction, and ability of the consultative board to keep industry on track, Ofgem could reduce the need to utilise the SCR arrangements. The SCR arrangements benefit from a single central direction for cross-code, or large scale single code changes. For the new arrangements to make the SCR arrangements obsolete there must still be an ability of Ofgem to block changes that could interfere with the strategic change.

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

If the licenses of the various codes are different, it may be more appropriate to stagger the licensing procurement arrangements. If a single model is selected, a single procurement exercise may produce efficiencies from parties being able to bid for multiple codes in a single tendering exercise.