



Peter Davies, SEC Panel Chair
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Laura Nell
Code Governance Remedies
Ofgem, 9 Milbank
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Via email: CodeGovRemedies@ofgem.gov.uk

24th January 2017

Dear Laura,

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

The Smart Energy Code (SEC) Panel welcomes the opportunity to respond to Ofgem's initial consultation on implementing the Competition and Markets Authority's (CMA's) recommendations for code governance arrangements. Our response is from the perspective of the governance of the SEC Panel and assumes that SEC Parties will provide their own views on your recommendations set out in the consultation.

As set out in *Chapter 2: Scope of the new arrangements* of the consultation, we consider that the SEC will play a material role in delivering strategic changes to the energy market, and therefore agree that the SEC falls within the scope of the new arrangements. As the SEC is the only current dual fuel code within the GB energy market, and is driving the direction of travel in which the market is moving towards (such as the roll-out of smart meters and the potential future role with Ofgem's Faster Switching), we consider that the SEC can play an important role in the delivery of large-scale strategic reform in the future.

In regards to *Chapter 3: Licensing and Competition* of your consultation, we consider that Model 2 is the model that aligns closest to the current SEC arrangements in place, in regards to the SEC and the role of SECAS (in its expanded future role as Code Manager). However, it is noted that any specific model that Ofgem may choose as their preferred option may not be suitable for all Code Administrators and Delivery Bodies, and therefore, flexibility may be required as we progress through licensing Code Managers and Delivery Bodies over the coming years.

We wish to highlight that SECAS, with the contract awarded to Gemserv, had undergone a competitive tendering process, and feel that this is an appropriate method by which Code Managers are appointed by the respective Code Panels. This competitive tendering process has meant that the underlying contractual terms in place between the SEC Panel and Gemserv ensures clear accountability for the role of SECAS.

A competitive tendering process for the delivery of services by the Code Manager moving forward should ensure that the Code Panels are able to select their preferred bidder, notwithstanding the role that Ofgem will play in granting the preferred bidder with a licence. Prior to this competitive tendering and contractual arrangements process, the SEC Panel believe that the scope and content of any Code Manager Licencing regime will need careful consideration, in order to avoid introducing confusion and clouding accountabilities. This relates specifically to the performance and oversight of

the Code Manager, between the Authority, via the Licence implemented, and the Code Panel, in this case, the SEC Panel, through its service and operations contract.

In regards to *Chapter 4: Strategic Direction* of your consultation, we consider that a Strategic Direction is an appropriate method by which to establish a direction of travel, and will be beneficial in setting expectations and managing responsibility as we move into the new regulatory regime.

In regards to *Chapter 5: Consultative Board* of your consultation, we note the merit in a Joint Industry Plan which will aid in the delivery of strategic change, and note that the Consultative Board will need to work closely with the GB energy Code Panels in order to ensure that any and/or all cross-cutting matters are taken into account in order to avoid the duplication of work and resource. This will help drive efficient planning and prioritisation, whilst also reducing the potential need for additional governance meetings to help facilitate the delivery of strategic change.

Ofgem should ensure that the Consultative Board have a clear Terms of Reference (ToR), with its role being to facilitate cross-industry change and refine strategic direction. In addition, the Consultative Board should not be onerous to the overall functions of Code Panels, with costs and scope kept to a minimum.

We look forward to working with you in helping to shape the new code governance provisions as set out in your consultation.

If you would like to discuss this response, or wish to discuss how the SEC Panel may further contribute to Ofgem's implementation of the CMA's recommendations to Industry Code Governance, please contact me in the first instance via email: peter.davies@seccoltd.com.

Yours Sincerely,



Peter Davies

SEC Panel Chair