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Code Governance Remedies Q4 Workshop

24 November 2017

30 November 2017

1 December 2017

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Setting the scene

Objectives

- Provide an update on the two remedies that do not require legislation that we are now focussing on.
- Get stakeholder views on the different options we are considering for the Consultative Board.
- Test and get views on the option of taking an evolutionary approach to establishing the Consultative Board.
- Set out our thinking on the strategic direction.
- Discuss whether our proposals on the strategic direction provide industry with what they need.

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Agenda

10.00 **1. Introduction & welcome** (15mins)
- Objectives and agenda – Lesley Nugent
- Background – Colin Down

10.15 **2. Consultative Board update and general discussion** (20mins)
- Update on thinking – Tricia Quinn
- Discussion

10.40 **3. Breakout activities on the Consultative Board** (60mins)
- Activity 1: Pros and cons of three models
- Activity 2: Issues/barriers and mitigations for three models

11.40 **4. Coffee break** (20mins)

12.00 **5. Strategic direction update and general discussion** (30mins)
- Update on thinking – Colin Down
- Discussion

12.30 **6. Wrap up** (15mins) – Lesley Nugent
- Feedback back from activities
- Next steps

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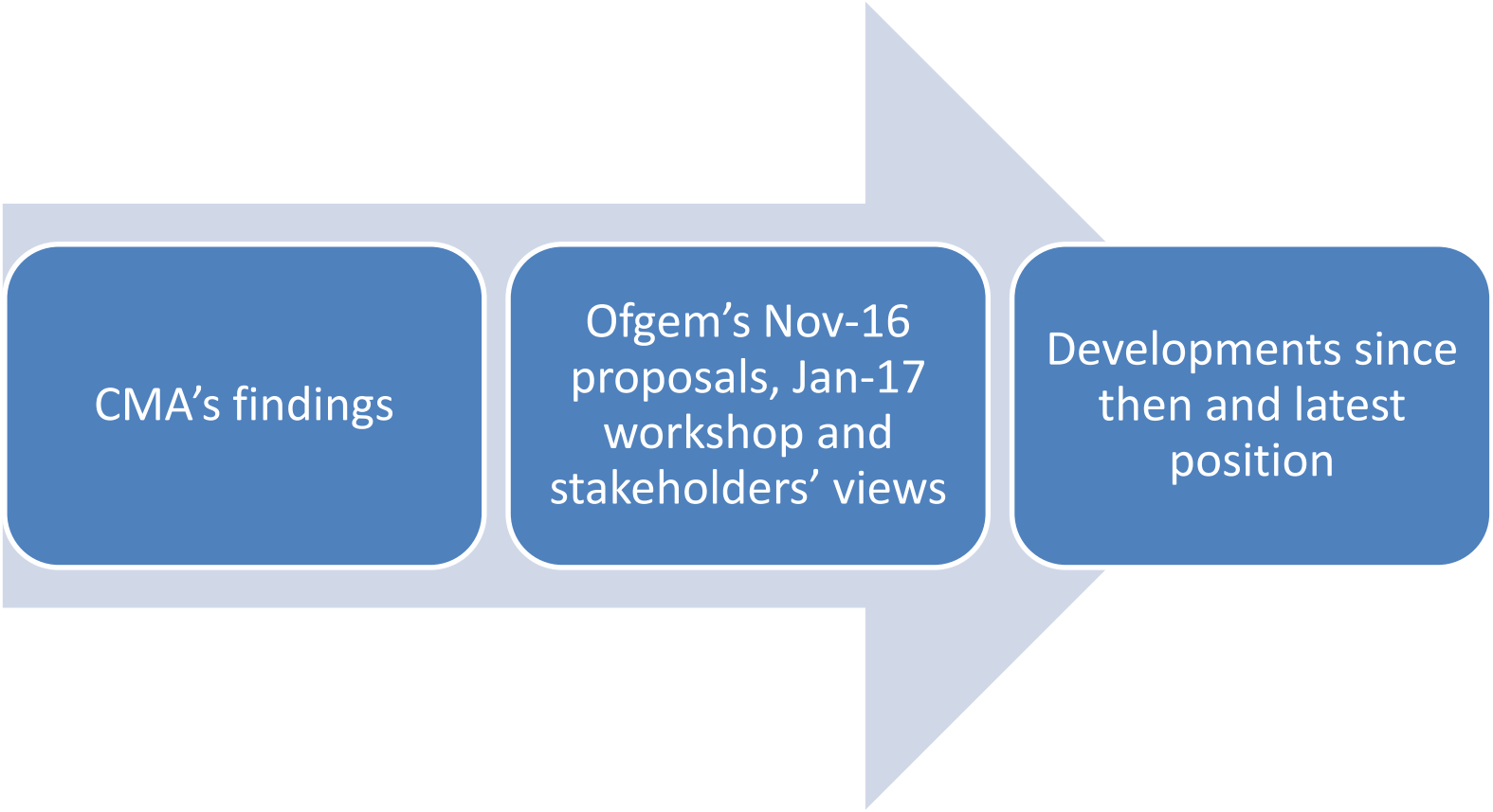
Background



The Consultative Board

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Consultative Board (CB)

- **Update on thinking**
  - Overview of the core design questions
  - Example of an evolutionary approach
- **General discussion**
  - Views on the core design questions
  - Views on the evolutionary approach and how this could work in practice
  - Questions on the working paper that was circulated

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Views on the CB

CMA

- It should be a forum to bring stakeholders together to discuss and address cross-cutting issues
- The CB would be a stakeholder management tool
- It could be a flexible discussion forum to consider matters linked to the development and delivery of the strategic direction, best practice, and functioning of code regime.
- A forum for addressing cross-cutting code issues at an early stage.
- Allow Ofgem to engage proactively and early with strategically important modifications.
- A mechanism to give us a better grasp on the code regime.

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- It should coordinate and facilitate delivery of strategic changes across codes.
- Enable the delivery of strategic direction by translating into a joint industry plan.
- Look at the sequencing of strategic changes.
- Consider the volume of change and dependencies in developing JIP.
- Monitor the delivery of the JIP, identifying and removing obstacles.
- Help ensure the strategic direction is realistic and capable of providing the required steer for industry.
- Make sure delivery timetables, sequencing of change and cost efficiency are sensible.
- Over time, we see it being re-set to a more strategic body.
- Taking a more proactive role in tackling long-term system level issues.
- Considering the scope of the codes.

Industry

(based on consultation responses and bilateral meetings)

- Are generally supportive of the creation of a CB and agreed with the functions suggested in the consultation.
- Suggested it would need a secretariat and powers.
- It should proactively seek to spot gaps/overlaps for modifications
- It mustn't just become another layer of bureaucracy.
- It could have a programmatic/delivery function and significant role in designing and delivering cross code change.
- A model where the coordination of change sits with the code manager.
- The CB could have a role nominating a code manager to lead modifications and holding them to account.

Spectrum of views on the role of the CB

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Outcomes we want to achieve?

Building industry governance and systems that work for strategic change

- how to achieve desired objectives in the absence of legislation

Clear **accountabilities** for sponsoring end to end change	**Prioritisation** of the industry code and system changes that benefit consumers	Better **coordination** of complex changes that impact multiple codes and systems
Ofgem plays a more strategic role, with industry focussing on the "how"	Ofgem and government better able to deliver policy agenda	Faster implementation of change
Industry is self sufficient in delivering end to end change	Clearer pathway for innovation and new business models	Faster realisation of benefits for consumers
Responsibilities for supporting and facilitating change are clear	Those creating blocks and delays can be challenged	Minimise wasted effort and inefficient use of resource across industry
Responsibility for the strategic direction needs to sit within the current governance structure. Who is best placed to be responsible for the strategic direction?	We need to ensure the arrangements can manage the scale of change on the horizon. How do we ensure change in the interest of consumers is prioritised, and that blocks to innovation are challenged?	Cross code working groups, consistency, and alignment could deliver a number of efficiencies. How to ensure better cross-code working and co-ordination within the current arrangements?

How do we practically implement and embed changes that make the current system better and achieve these outcomes

Core design questions

- What should be the functions of the body (which the CMA referred to as the 'Consultative Board', but which we recognise could be labelled differently, depending on its role and functions)?
- Who should sit on the new body?
- How do roles and responsibilities need to change?
- How will the body be funded?
- How will any PMO support be provided, where required?
- How will the changes be implemented?
- How will the changes be assessed and evaluated?

What is the right balance of proposals, to bring quite complicated and fragmented arrangements together to deliver the strategic direction, while maintaining delivery of BAU arrangements

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Range of options considered

Policy Options	BAU	Do Minimum	Intermediate Option	Intermediate Option	Wider Change
What functions will be the body undertaking? Scope (functions)	**(a) The new body does not have an industry role**	**(b) Narrow remint** (i) Supports the co-ordination of panels and code administrators to produce JIP (ii) Reports on progress of SD to Ofgem (iii) Discusses opportunities for cross code co-ordination (no real challenge function) (iv) Panels/industry use it as a forum to discuss cross code mods or strategic change issues	**(c) Focus on core functions** (i) Own and develop JIP (ii) Monitor, questions delays & blocks, reporting (iii) Provides a view to Ofgem and panels on strategic change	**(d) Core Functions (providing firmer "recommendations") with possible future role in advising and considering longer term strategic issues** (I) Lead implementation of SD (ii) Own and develop JIP (iii) Appoint leads for working groups on strategic mods & set time table (iv) Monitor, challenge, report (v) Possibly a role advising on future strategic issues on code issues	**(e) Wide Remit** Body has wide remit - covering CMA and consultation suggestions (eg provide assurance and sharing best practice)
Who will be on the delivery body? Solution (roles &resp)	**(a) Industry needs to deliver but no changes to arrangements**	**(b) Industry only panel**	**(c) Mixed Panel** - Independent chair and experts and industry reps (panel reps and CA's and delivery bodies where appropriate)	**(d) Independent Expert panel**	**(e) Ofgem led panel (with expert & industry reps, & separate PMO)**
What is the impact on the roles and responsibilities Delivery (composition/who)	**(a) No changes to current arrangements.**	**(b) Panels and code administrators play a greater role**	(c) **Strategic changes in the JIP are responsibility of the new body**. It is a more "formal" advisory role to Ofgem and industry on strategic mods. Strategic and BAU mods responsibility is still largely with Panels	**(d) the Consultative Board makes recommendations relate to SD and strategic mods** - There is a shift in responsibility from panels for certain strategic/cross cutting mods but BAU mods remain with panels.	**(d) All strategic changes & issues and wider project management advice are responsibility of new body.**
How will the changes and interactions be implemented?	**(a) No changes to current arrangements.** Parties/code administrators expected to support delivery body	**(b) Industry implementation with no guidance** Provide industry with a timeframe to identify the necessary changes to codes or put in agreements to make arrangements to work	**(c)Require industry to develop a MOU and make other framework changes as required**	**(d) Licence modifications and draft MOU for the interim period.** - While we make licence modifications to ensure parties have an obligation to support the delivery of the SD. - Industry would need to raise mods as required and as the role of the body evolves	**(e) Ofgem identify and make all framework changes**
How will the delivery body and the functions it performs be funded?	**(a) Costs incurred are through current charging arrangements** - industry need to decide on the division	**(b) Cost reflective Approach.**	**(c) Smeared unless significant (dependent on the materiality of cost)**	**(d) All costs are smeared**	**(e) Costs are recovered through a licensee**
Is PMO support needed?	**(a) No PMO support provided**	**(b) Code Administrators support on a pro rota basis/as needed - could be specified in MOU**	**(c) PMO support is tendered**	**(d) The new body decide who provides the PMO support**	**(e) Provided by existing an licensee**

- We are considering a spectrum of options.
- We are leaning away from the two extremes but feel the right starting point for the reform is along this spectrum.

An evolutionary/incremental approach

- Whether we will get legislation to introduce licensed code managers will continue to be uncertain.
- It seems sensible to start making changes to begin moving towards the outcomes we want to achieve and start actualising benefits this could bring.
- Use this as an opportunity to identity and review where this new body can add most value, through trialling and testing.
- We have developed some examples of the role of the CB in order stimulate discussion on where it can add value and how can this develop over time.
- Any new arrangements and responsibilities will need to be effectively embedded.
- **To achieve the desired outcomes, there are likely to be implications for existing industry participants' roles and responsibilities.**

Evolutionary approach: pros/cons

Pros

- Starting narrow allows more flexibility and for the role of the CB to develop to ensure we identify where it can add most value.
- Starting point to begin building the right foundations and cultural change that is needed to facilitate the scale of future change.
- It could be a catalyst for more consistency across codes and in the role of administrators.
- Industry can start to benefit from the insights and perspectives of independent experts
- It still provides a place for consumer groups and innovators to target/focus interactions & issues.

Cons

- It might be difficult to evolve the role of the CB.
- It might be difficult to get the right people on the board if the functions are changing over time.
- It could be a very long process and one that is too slow.
- There is a risk that the body adds another layer with little additional benefit.
- Given the range of SCR's are there significant strategic/cross-code issues for the CB to be looking at.

Example 1: CB has narrow remit

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Ofgem

- Produce strategic direction and updates
- Seat on Consultative Board
- Modification decisions

Consultative Board

- Supporting/providing a forum for panels and code. administrators to produce JIP
- Reporting on progress of strategic direction to Ofgem.
- Discuss opportunities for cross-code co-ordination.
- Discuss blocks to innovation and prioritisation.
- Panels/industry use it as a forum to discuss cross-code mods or issues

At this stage may not need a PMO

Code panels

- **<u>Responsible for strategic direction and JIP (for discussion)</u>**
- Lead BAU and strategic modifications
- Support, provide input and consider advice of CB (attend as agenda requires)
- May reflect on the discussions and perspectives shared at CB meetings
- May request agenda items to be discussed at the CB

Code administrators

- Support and provide expertise to CB (as required)
- May lead cross-code mods if panels agree (co-ordinating input from other administrators and delivery bodies)
- Work with panels to ensure co-ordination across codes and to support CB

Industry

- Raise modification proposals and participate in working groups
- Support and provide expertise as required to CB
- Can identify cross-code issues and ask panel/code administrator to raise it for discussion at CB

- Functions of the CB are quite narrow (advisory) and the responsibility for the strategic direction sits with panels. The **<u>main aim is to facilitate and assist the current governance process, identifying opportunities for cross-code working, and reporting on progress</u>** of the strategic direction.
- Code panel representative attend meetings of CB when agenda items affects their codes – they participate and can raise cross-code issues to be discussed at the CB
- The frequency of CB meetings may depend on the volume of issues they are dealing with – could be every other month.
- If the CB is just supporting the co-ordination and production of the JIP, and agenda items are driven by panels, the CB may not need a separate PMO.
- Could this be facilitated through an MOU or does it need a change to Licence to make obligations stronger?

Example 2: CB has an intermediate remit

Ofgem

- Produce strategic direction and updates
- Seat/observer on Consultative Board
- Modification decisions

Consultative Board (CB)

- Own and update JIP
- Monitor, question delays, report
- Provides a view to Ofgem and panels on strategic code issues/changes
- Provides a view on opportunities for cross-code co-ordination
- Provides a view on blocks to innovation and prioritisation
- A forum to discuss cross-code mods or issues

PMO/Secretariat or independent advice

Code panels

- Responsible for strategic direction
- Lead BAU and strategic modifications
- Support, provide input and consider advice of CB (attend as agenda requires)
- Should consider the advice of the CB
- Can be called to the CB to answer/discuss questions regarding delays and blocks to strategic change.
- May request agenda items to be discussed at the CB

Code administrators

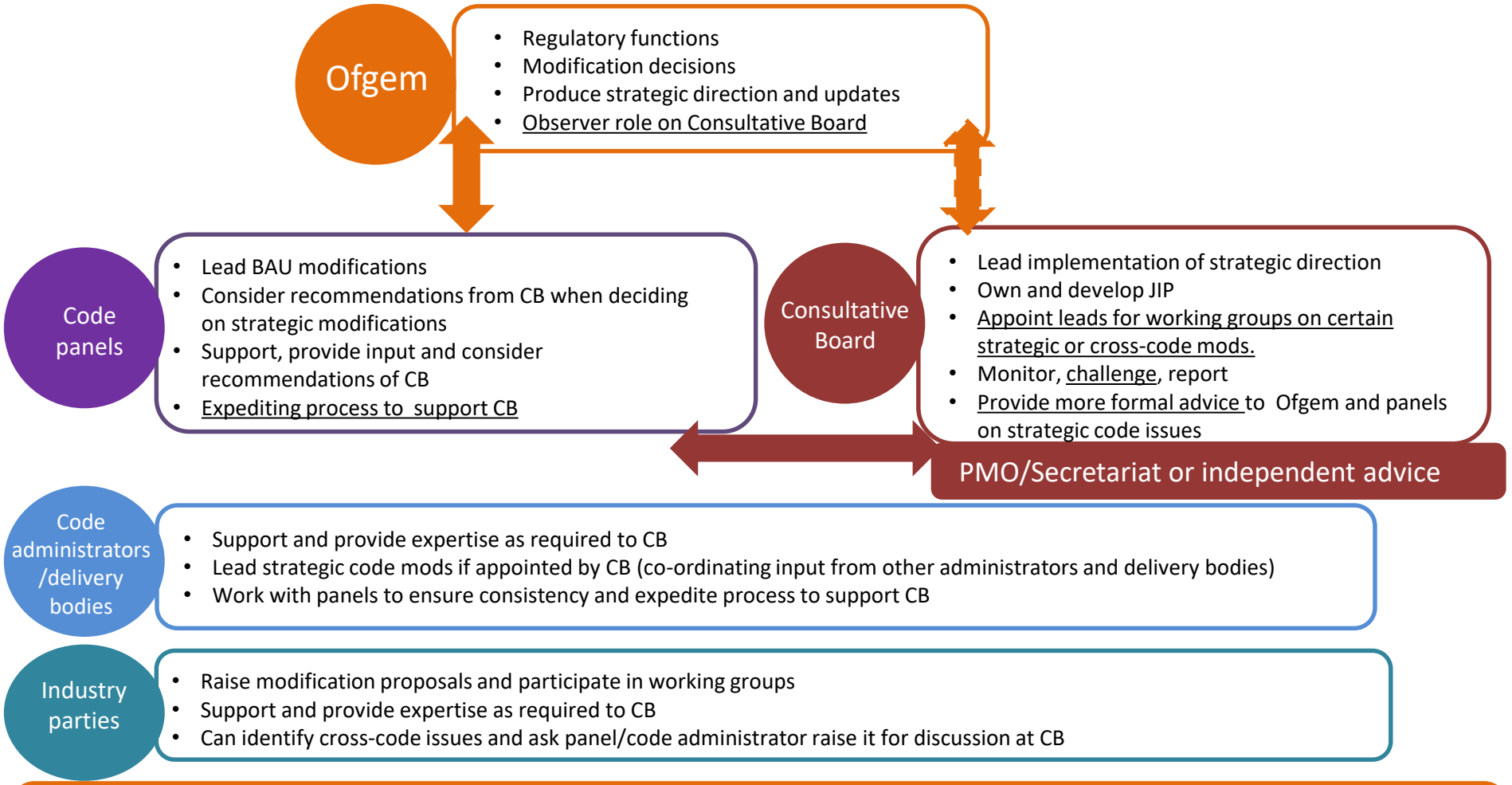
- Support and provide expertise as required to CB
- May lead cross-code mods if panels agree (co-ordinating input from other administrators and delivery bodies)
- Work with panels to ensure consistency and to support CB

Industry

- Raise modification proposals and participate in working groups
- Support and provide expertise as required to CB
- Can identify cross-code issues and ask panel/code administrator raise it for discussion at CB

- Overtime if appropriate the role of the CB could develop and it can have increasingly more influence on strategic change
- This could be over a number of stages where it gradually transitions to become a body where it provides a view and could have the ability to ask industry parties to discuss answer questions regarding blocks or delays to strategic change.
- This may need framework changes to embed, for example Licence Obligations and code changes.

Example 3: CB has a wide remit



- If appropriate the role of the CB could expand to have responsibility for strategic change and have a more formal role.
- On certain strategic mods it could have a role in appointing leads to working groups and providing advice to Ofgem and panels.
- It could challenge parties that are causing delays and blocks and provide a view on prioritisation.
- Changes to Licences and Codes to ensure obligations towards the strategic direction and CB are clear.

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Break out session

In two breakout groups work through two activities:

(i) **Activity 1: Discuss the pros and cons of the CB having a narrow, intermediate, or wide type remit**

- where is there consensus/differences in opinion that something is a pro or con compared to the current arrangements, and why?

(i) **Activity 2: Discuss any issues/barriers with the CB having a narrow, intermediate, or wide remit**

- where barriers or issues have been identified, what are possible mitigations and/or solutions

The strategic direction

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Strategic direction

- **Proposed content of the strategic direction**
  - Vision
  - Roles and responsibilities
  - Landscape of industry code and system changes
- **General discussion**
  - Views on the proposed content
  - Views on our proposed criteria for including work streams in the 'landscape' section

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Contents of vision

The vision would explain:

the key drivers that will lead to changes in the energy market, such as technological developments, the decarbonisation agenda, Ofgem's and government's market reforms etc.

the market that we want to create, largely drawing on existing materials in the public domain, such as the corporate strategy, forward work programme and other strategy documents

that the code governance framework (including any changes to roles and responsibilities) should enable industry to deliver the code changes needed in light of the key drivers above, by enabling:

- prioritisation of changes that benefit consumers, and
- better coordination of complex cross-code changes

that the code governance framework should not get in the way of innovation that benefits consumers.

Contents of ‘landscape of code and system changes’

- One-page map of upcoming code changes
- One page dashboard of key information on each ‘relevant work stream’

Criteria for ‘relevant work stream’

Our criteria for what is classed as a ‘relevant work stream’:

“a work stream that:

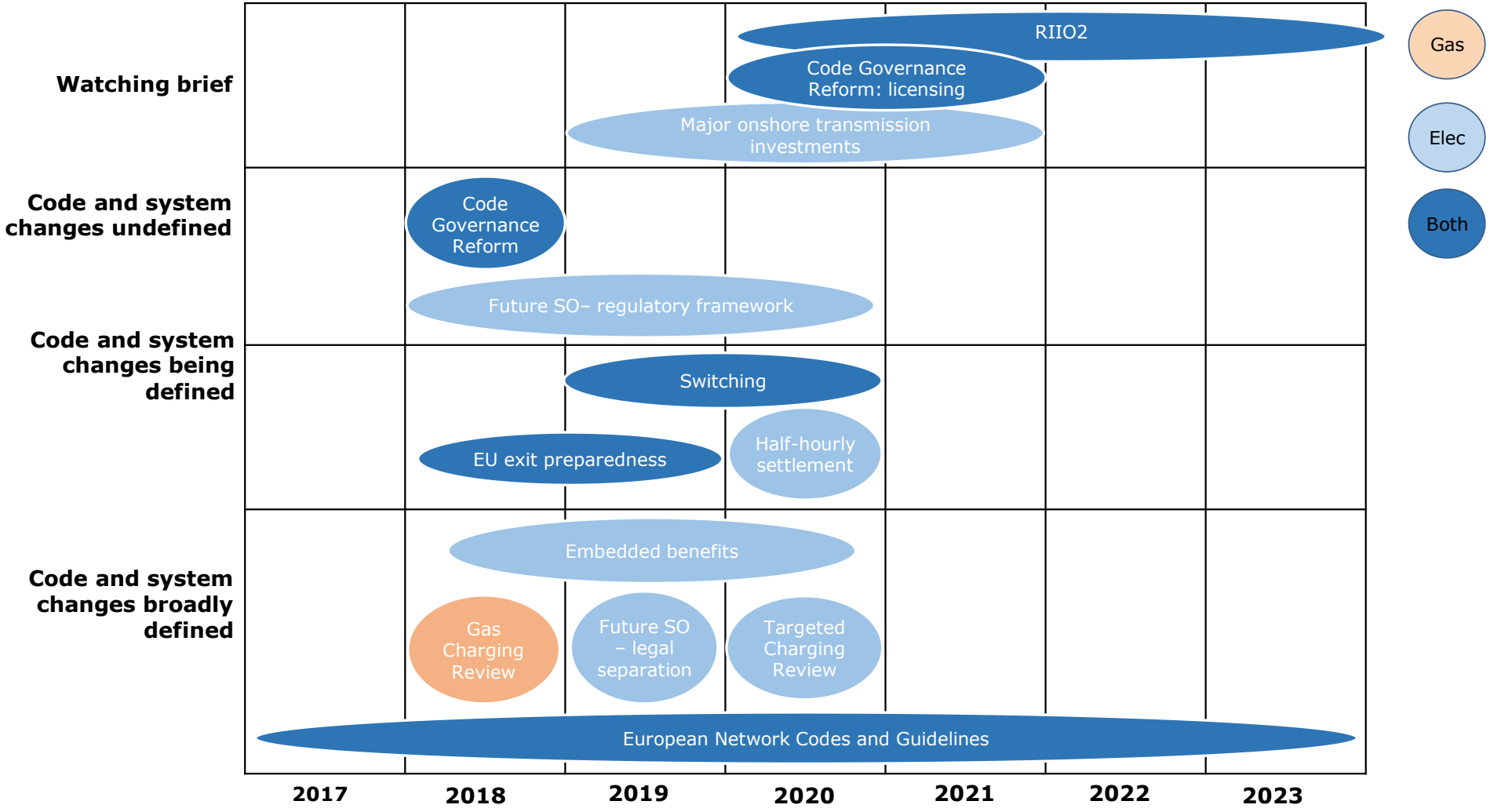
- is referenced in Ofgem’s 2018/19 forward work programme; and
- may or will require code or system changes from April 2018 onwards to deliver on its desired outcomes (where those changes are not part of business as usual code modifications).”

Using this definition and the 2017/18 forward work programme, the following work streams would be included in the annex to the strategic direction:

EU exit preparedness	Half-hourly settlement
Code governance reform	Major onshore transmission investments
Embedded benefits	RIIO2
European network codes and guidelines	Switching
Future SO	Targeted charging review
Gas charging review	

Example 1 of one-page timeline

Illustrative only – the contents of this diagram should not be relied upon



Example 2 of one-page timeline

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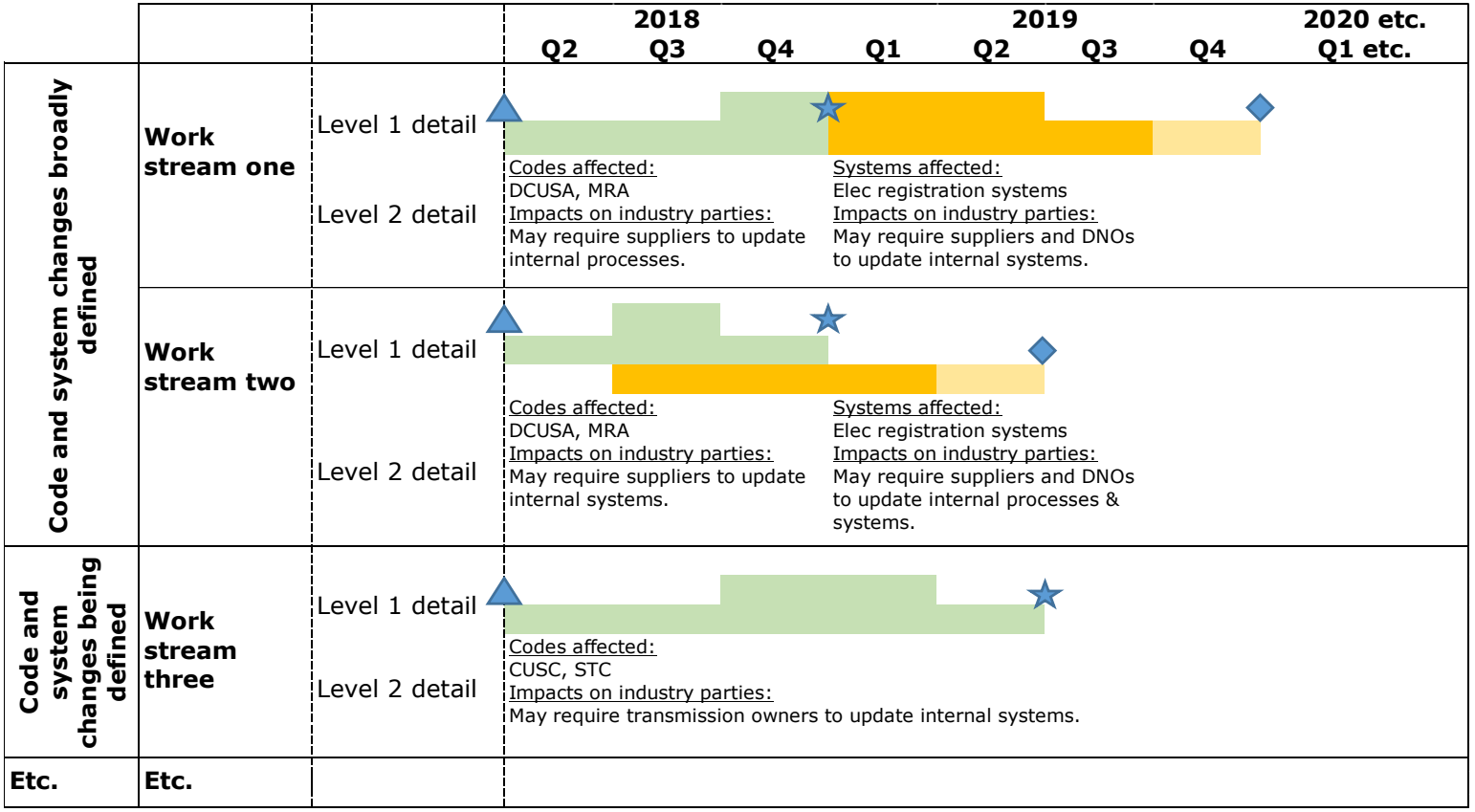

Proposed dashboard for each 'relevant work stream'

Outcomes:

1. Improved consumer experiences and perceptions of changing supplier, leading to increased engagement in the market, by delivering switching that:
•Is more reliable
•Offers consumers control over when they switch, including faster switching.
•Minimises any differences in switching experiences.
2. Etc.

Switching programme

High level timelines and milestones:

•Final modifications and panel reports due after the second half of 2019 (expected to go-live in 2020)
•Etc.

Route of code change implementation:

SCR (preferred route is SCR option 3, where Ofgem leads E2E process; expect to make decision on route in early 2018)

Context:

The switching process underpins an effective energy market where competition benefits consumers.

The existing switching arrangements are based on processes that operate differently for the gas and electricity markets and have remained largely the same since the late 1990s. The switching arrangements are inefficient and can result in consumers being let down by delayed, unsuccessful or unwanted switches.

The Switching Programme was launched in 2015 to address these problems by simplifying and harmonising the gas and electricity switching arrangements in a cost-effective manner.

The reforms will require modifications to both industry codes and licences. We are also proposing the creation of a new code (the Retail Energy Code).

Links:

Ofgem, Strategic Outline Case, January 2017
Etc.

Prioritisation

- Key outcome we want is for industry to prioritise the code and system changes that provide most benefit for consumers and competition.
- We consider that the strategic direction alongside our proposals on the roles of the panels and consultative board will help industry to prioritise and focus their resources on the code changes that most benefit consumers.
- Question for stakeholders: is there any other information we need to provide in the strategic direction to enable the industry to focus their resources on the priorities.

Wrap up

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Wrap Up

- Feedback from breakout sessions
- Next steps

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Our priority is to protect and to make a positive difference for all energy consumers. We work to promote value for money, security of supply and sustainability for present and future generations. We do this through the supervision and development of markets, regulation and the delivery of government schemes.

We work effectively with, but independently of, government, the energy industry and other stakeholders. We do so within a legal framework determined by the UK government and the European Union.

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