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Rachel Clark
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Ofgem
10 South Colonnade
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15th November 2018

Dear Rachel,

Re: Switching Programme: Regulation and Governance – way forward and statutory consultation on licence modifications

The Smart Energy Code (SEC) Panel welcomes the opportunity to respond to Ofgem’s consultation on the ‘Switching Programme: Regulation and Governance – way forward and statutory consultation on licence modifications’. This response represents the collective views of the SEC Panel which were discussed and agreed at the November 2018 Panel meeting.

The SEC Panel’s response to the questions asked within the consultation document can be found in Annex A to this letter. The SEC Panel also wish to highlight a number of observations as part of their response; these are set out below.

Communication on Charges

The SEC Panel notes the approach for the RECCo Board to be established in time for the commencement of the new financial year 2019/2020. It will be key for the RECCo Board to ensure that all interested stakeholders are kept informed (including those with limited ability to actively engage with the switching programme) so that when they start to see REC related charging invoices, they are aware and ready for them. Communication to all parties will be key in these early stages.

Development of the REC

The SEC Panel note the continued approach for a best in class code to be delivered. However, for this to be successfully achieved, lessons learnt from other code development (including the SEC) need to be considered to ensure similar challenges and issues encountered under other codes are not repeated. For example, while it is understood that the REC will be subject to changes via the Ofgem Switching Programme Transitional Change Request mechanism, careful configuration management should be utilised. This is to ensure that changes to the different versions of the REC are documented and communicated in a transparent way. In addition, if a change is agreed to the content of REC v 2.0, the transitional change mechanism will need to make sure it is filtered through to the content of REC v 3.0 (if and when appropriate).

Design, Build and Testing approach

The SEC Panel notes the decision to modify the DCC Licence to extend its role into the Design, Build and Test (DBT) phase and early years of steady state operation. As per the SEC Panel response to the June 2018 consultation, we reiterate the need to ensure that there is no detrimental impact to the delivery of SEC obligations, the Smart Metering rollout and that clarity is provided on the 'ring fencing' of resource.

The SEC Panel also recommends further details are provided on the testing approach. In particular, content of the expected testing approach documents and the roles and responsibilities of those involved. Having clarity in advance of the testing approach documents being produced, and testing phases commencing, will ensure that those involved and affected by testing are clear on what to expect. It will also enable any subsequent changes to testing approaches or mechanisms to be effectively tracked and communicated in a timely manner.

Proposal for the DCC Design, Build and Test Incentives Scheme

The SEC Panel notes the proposed details of the DCC Incentive scheme in relation to the delivery of the CSS DBT activities. The approach outlined in the consultation is clear and broadly sensible in structure. However, there is a need to be mindful that such schemes do not unintentionally shift the focus of the DCC away from the 'doing' to maximising its revenue streams.

Overall, the SEC Panel welcomes the desire for a collaborative development of the REC, and requests active engagement from Ofgem so that lessons can be learnt from those issues encountered as part of the SMIP.

If you would like to discuss our response, please contact SECAS in the first instance on 020 7090 7755 or secas@gemserv.com.

Yours sincerely,



Peter Davies
SEC Panel Chair

Copied to: SEC Panel Members and SEC Parties.

Annex A – SEC Panel responses to Switching Programme: Regulation and Governance – way forward and statutory consultation on licence modifications consultation questions.

Below are the SEC Panel responses to the questions contained within the consultation. Where the SEC Panel has no view on the question specific view on the question, this is indicated.

Question		SEC Panel response
4.1	We would welcome views on whether Ofgem should have an ongoing role in ratifying RECCo Board appointments after the appointment of the first board.	<p>It will be up to the individual parties to comment on the appropriateness of such an approach, as they will be parties to the REC, and will have a direct interest in the mechanism and appointees to the RECCo Board.</p> <p>However, consideration could be given to having Ofgem as an escalation/appeal route for RECCo Board Appointments, rather than a direct involvement/approval. Such an escalation route could then be used if there are genuine concerns over the approach taken, process followed and those appointed by the REC Nominations Committee.</p> <p>One area that may require more direct Ofgem involvement though, which would be consistent with other codes, is the Ofgem ratification of the appointment of the RECCo Board (and Panel) chair. The appointment of the chairs of other codes (such as the SEC and BSC) require Ofgem to confirm and ratify the appointment, so a similar approach may need consideration.</p>
4.2	We would also welcome views on whether the REC parties should have a role in ratifying the first and/or subsequent boards	<p>It will be up to individual parties to comment on the appropriateness of this approach.</p> <p>However, if this approach was to be followed either initially or on an enduring basis, a structured and clear mechanism would be needed. (including any dispute type mechanism) to ensure it is easily understood.</p>
4.3	Do you agree that the REC should place less reliance on face to face industry meetings for modification development and instead empower the REC Manager to develop and analyse proposals, procuring expert support as and where required?	<p>While it is recognised that this may aid the efficient progression of changes through what will be the REC Change Process, especially considering the time it takes for changes to other industry codes (including the SEC) to progress, it also recognises the shift in the REC, from having Code Administrators to Code Managers.</p> <p>However, the extent to which this is done, needs careful consideration to ensure that industry is consulted fairly on a change if it is indeed left to the Code Manager to procure expert support. In addition, some changes may require face to face meetings to ensure the solution(s) developed are fit for purpose and address the issue or defect identified.</p>

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		<p>If appropriate engagement is not undertaken, the progression timescales for a change could be increased, by the need to undertake additional activities or consultations, to get industry views and/or views on how industry raised comments have been resolved.</p> <p>An alternative approach, would be for the initial steps of the REC Change Process to include consideration of whether a working group is required or not (in a similar vein to Self-Governance vs Authority Determination).</p>
4.4	Do you consider that a recommendation to the Authority should be made by the RECCo Change Panel, with reference to the REC relevant objectives, or based on a vote of REC parties?	For consistency with other codes, including those that in recent years have shifted to an objectives-based approach to change approvals, it would be sensible to continue such an objectives-based approach.
4.5	Do you, in principle, support the approach to performance assurance outlined?	<p>It will be up to individual parties to comment on the appropriateness of this approach.</p> <p>Any performance assurance regime needs to be appropriate and proportionate based on a clear absence of risk appetite associated. Such assessment needs to be clear and transparent when undertaken, while also allowing for approaches to be periodically reviewed and challenged if they are either too or not sufficiently stringent.</p>
5.1	Would you support the development of a REC digitalisation strategy?	<p>While it is recognised and understood that the creation and establishment of the Retail Energy Code will consolidate a few existing industry codes, which should make operating in the energy market more efficient, transparent and understandable, there is still a lot of regulation for existing parties and new entrants to understand and keep track of.</p> <p>Any approach to aid the navigation and understanding of the REC, including a digitalisation strategy, is welcomed. Clarity is needed on the approach and method for any such digitisation. This includes being mindful of the need to make sure that the format and structure of the REC supports any such strategy.</p> <p>Consideration is also needed on the best and most appropriate mechanism for delivering such a strategy, including making it adaptable so that other codes could undergo some form of digitalisation in the future.</p> <p>Note that the SEC Panel has recently agreed to begin work on assessing options for the digitisation of the SEC.</p>

Question		SEC Panel response
5.2	<p>Do you agree that the draft Registration Services Schedule meets the required standards set out in the Regulatory Design Principles?</p> <p>If not, please describe how you think it should be improved?</p>	It will be up to individual parties and directly affected Code Panels and Administrators to comment on the drafting of this schedule.
5.3	<p>Do you agree that the draft Address Management Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?</p>	It will be up to individual parties and directly affected Code Panels and Administrators to comment on the drafting of this schedule.
5.4	<p>Do you agree that the draft Data Management Schedule meets the required standards set out in the Regulatory Design Principles?</p> <p>If not, please describe how you think it should be improved?</p>	It will be up to individual parties and directly affected Code Panels and Administrators to comment on the drafting of this schedule.
5.5	<p>Do you agree that the draft Interpretations Schedule meets the required standards set out in the Regulatory Design Principles?</p> <p>If not, please describe how you think it should be improved?</p>	It will be up to individual parties and directly affected Code Panels and Administrators to comment on the drafting of this schedule.
5.6	<p>Do you agree that the draft Entry Assessment and Qualification Schedule meets the required standards set out in the Regulatory Design Principles?</p> <p>If not, please describe how you think it should be improved?</p>	It will be up to individual parties and directly affected Code Panels and Administrators to comment on the drafting of this schedule.
5.7	<p>Do you agree with our proposals that:</p> <ul style="list-style-type: none"> PAB, as part of its role in mitigating risk to consumers and the market, should provide information to the REC Manager on the specific risks that it wants to be mitigated and assured against through Entry Assessment and Re-Qualification; 	<p>The approach outlined seems sensible and in keeping with other performance assurance arrangements under other codes.</p> <p>In relation to the risk assessment and mitigation, to support this, clear detail will need to be provided on the method and conclusions of the REC PAB in relation to determining which risks need the most direct mitigation.</p>

Question		SEC Panel response
	<ul style="list-style-type: none"> The Code Manager should have clear obligations to support the Applicant and coordinate with other code managers; and Suppliers that undertake a material change to their systems, processes or people should undertake Re-Qualification? 	
5.8	Do you think that PAB and the REC Manager should work with service providers to identify and mitigate risks associated with material changes to their systems, processes or people?	It will be up to individual parties and directly affected Code Panels and Administrators to comment on this proposal.
5.9	Do you agree that the draft Service Management Schedule meets the required standards set out in the Regulatory Design Principles including whether we have set out clear and workable roles and responsibilities for Market Participants, service providers and the Switching Operator that will support the effective operation of the new switching arrangements? If not, please describe how you think it should be improved?	It will be up to individual parties and directly affected Code Panels and Administrators to comment on the drafting of this schedule.
5.10	We also welcome views on the draft service levels set out in Appendix B of the draft Service Management Schedule.	It will be up to individual parties to comment on the draft service levels.
5.11.	Do you agree that the draft Switch Meter Reading Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?	It will be up to individual parties and directly affected Code Panels and Administrators to comment on the drafting of this schedule.
5.12	We welcome views on whether we should retain or amend the remit of the proposed Switch Meter Reading Exception Schedule beyond domestic consumers and electricity NHH consumers.	It will be up to individual parties and directly affected Code Panels and Administrators to comment on this proposal.

Question		SEC Panel response
5.13	Do you agree that we should move any requirements to obtain and process meter reads for settlement purposes into the BSC and UNC?	Yes, the SEC Panel supports the proposal to move requirements associated with settlement to the relevant settlement related codes (BSC and UNC). However, it will be up to individual parties and directly affected Code Panels and Administrators to comment on the proposal.
5.14	We welcome views on whether the Switching Meter Reading Exception Schedule should make specific provisions for consumers with smart gas meters.	It will be up to individual parties and directly affected Code Panels and Administrators to comment on the drafting of this schedule.
5.15	Do you agree that the draft Debt Assignment Protocol Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?	It will be up to individual parties and directly affected Code Panels and Administrators to comment on the drafting of this schedule.
5.16	Do you agree that the REC should refer to existing security standards rather than develop separate and bespoke ones?	The use of existing security standards would likely be helpful from an interpretation and stakeholder understanding purpose. However, lessons learnt from the current security regimes should be applied to ensure it is not burdensome on Parties.
5.17	Do you agree that a consolidated PPM Schedule should be developed and given effect as part of REC v2.0?	This seems to be a sensible approach.
6.1	What do you think are the pros and cons of Model A and Model B and which do you think we should use to develop an Exceptions Schedule in the REC?	There are benefits to either approach. Model A may be more desirable as it is less prescriptive and subject to the application of a risk-based approach (the mechanism to which would need to be clearly communicated) would help achieve the desired outcome of putting the consumer first. Model B may be the more practical option, as it mitigates a risk of people interpreting processes and requirements in different ways. It would also make performance monitoring easier as activities would be documented, enabling performance against activities to be monitored, captured and subsequently reviewed.
6.2	Do you agree that the theft of gas and electricity provisions should be moved to the REC?	On the basis that the SPAA will end as part of the activities of merging its content with the MRA into the REC, it would make sense to merge the content of the relevant provisions.

Question		SEC Panel response
6.3	Do you agree that the REC Manager should undertake the (re)procurement of any services due to commence at or after REC v2.0 implementation?	It would be sensible for the REC Manager to undertake procurement since they will need to be responsible for the management of the contracts and service providers. Inheriting contracts not procured by incumbents is an issue with the SMIP and the industry should learn from that.
6.4	Do you support the establishment of an industry-wide data catalogue that all code bodies incorporate by reference into their own codes and collaborate on the maintenance of?	Recognising the code consolidation arising from the establishment of the REC, a single data catalogue may be a sensible way forward. A single source of data should mitigate some of the data quality errors we currently see in the industry.
6.5	Do you think that the REC should have the responsibility of hosting the industry-wide data catalogue?	In line with the REC replacing the content of the SPAA, MRA and other relevant code content, it would be sensible for the REC to host the industry-wide data catalogue.
6.6	Do you think that an industry-wide data catalogue should be developed for REC v2.0 (to enable REC CSS messages to be incorporated from day 1) or should consolidation be undertaken as part of REC v3.0?	<p>Due to the far-reaching implications of such a single data catalogue across multiple codes (including those being 'ended') a clearly defined and well-planned approach should be developed, so that all the impacts and activities required are identified.</p> <p>Therefore it may be more prudent to develop the single industry-wide data catalogue in one go as part of REC v3.0 to help manage and minimise any disruption to parties, especially during the shorter term when SEC Parties are in the process of 'getting used to' using the Service Requests to communicate with Smart Metering Systems; however, doing it sooner may risk successful delivery.</p>
6.7	Subject to further development, assessment and consultation, would you in principle support aligning the gas and electricity metering codes of practice under common governance?	It will be up to individual parties to comment on this question.
6.8	If yes, do you consider that the REC would be a suitable vehicle for such common governance?	It will be up to individual parties to comment on this question.
6.9	Do you consider that the SMICoP should be incorporated into an industry code, and if so, do you agree that this should be the REC?	It will be up to individual parties to comment on this question.
7.1	Do you agree with the five incentivised milestones identified? Do you think any milestone should be given greater importance and therefore a larger proportion of margin placed at risk?	The approach seems sensible.

Question		SEC Panel response
7.2	Do you agree with our proposals for the shape of the margin loss curves. Do you have any suggestions for other margin loss curves which may better incentivise DCC to achieve its milestones in a timely manner while encouraging quality?	The approach seems sensible, although the timescales should be clearly communicated to the DCC and to the party(s) who will ultimately assess whether the milestone has been met and when.
7.3	Do you agree with our proposal for a potential recovery mechanism? Please give reasons. What types of criteria could be considered for demonstrating clear, transparent communication? and What portion of lost margin should be available to be recovered?	The mechanism seems sensible and in line with other similar cost recovery mechanisms already in place. Timeliness should be a key factor alongside the readability of any communications by affected parties in support of the recovery scheme. However, affected Parties will be best placed to decide whether or not the communications and/or reporting issued is clear. Feedback should be sought throughout the process and improvements to communications documented. Parties who fund the DCC should consider the appropriate level of recovery.
7.4	Do you agree with our proposals for a discretionary reward where it can be demonstrated that DCC has gone above and beyond established requirements for REL Address matching? Please give reasons.	Whilst it is recognised that such an approach may encourage good performance, it should not shift the focus of the DCC away from delivering what is required of them and on to demonstrating how they have met the requirements to obtain the discretionary award. Cost should also be considered. Any changes to deliverables above and beyond the specified requirements should be clearly costed and agreement sought before they are initiated. Equally, any system should be designed so that future change is not too costly or problematic. Ensuring this is the case should not be seen as a reason to increase cost in an initial phase of the project.
8.1	Do you agree with the proposed collaborative approach to consultation and modification report production?	Yes. This would reduce repetition and help ensure that everything is captured and communicated in a timely manner. We note the suggested timescales of initial Impact Assessment completion by the end of 2018 followed by the completion of drafting by the end of March 2019 seems to be very tight. This is especially so at a time when a lot of change is occurring under other industry codes, including the SEC (e.g. SMETS1 Enrolment and Adoption and the completion of activities associated with SEC Release 2.0).
8.2	Would you in principle support REC v3.0 code consolidation being progressed as a SCR separate to, but run in parallel with, the Switching Programme SCR?	The SEC Panel agrees that a coordinated approach is required to ensure that all changes are identified and progressed in a controlled and timely matter. Such an approach will also help

Question	SEC Panel response
	<p>mitigate any risks of requirements that exist under other codes being missed when they are moved into the REC (or other codes if required).</p> <p>Clarity is needed on how the subsequent changes, once identified, will be progressed. If changes need to be progressed through individual code Modification Processes, this may delay delivery as they would be subject to the code specific progression routes and timescales. In the case of the SEC, if there was a potential impact on the DCC Systems, associated Impact Assessments would take time to be delivered; based on prior experience this could take months. Therefore, timescales will need to be carefully considered as to how the changes in support of REC version 3.0 are identified, developed, approved and implemented.</p>