


## **Responses to our initial consultation on the code governance remedies**

**May 2017**

ofgem

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# Background

## Context

- November 2016: Industry Code Governance: Initial consultation on implementing the Competition and Markets Authority's recommendations
- January 2017: workshop
- February 2017: consultation closed
- May 2017: published responses to enable stakeholder engagement

## Our consultation

- Scope of the new arrangements
  - Licensing and competition
  - Strategic direction
  - Consultative board
  - Moving to the new arrangements
- } **Work streams**

## Responses

- 41 submissions in total
- From a wide range of respondents, including: code administrators, code panels, code bodies, large and medium-small suppliers, electricity and gas DNOs, Electricity and gas generators, representatives of the renewables industry, professional and industry associations, a consumer body, etc.

# *Scope of the new arrangements*

## We proposed

- New arrangements to include CACOP codes and the central system delivery functions
- Factors to be considered for the scope:
  - accountability,
  - strategic change,
  - volume and scale of change,
  - scope of code

## We asked

- Should the scope be broader or narrower?
- Are there any other factors to consider?

## They said

- The majority of the respondents agreed with the codes and functions we have identified
- Some suggested to include:
  - all codes (including upcoming ones),
  - Data Transfer Service (DTS), and
  - Security and Quality of Supply Standard (SQSS)
- Associated costs were mentioned by most as other factor to be considered

# *Licensing and competition*

## We proposed

- Include code manager and delivery body functions in a single licence, because of the synergies between them
- There may be merits in building the new code management responsibilities of NGET on existing conditions (through the electricity transmission licences) instead of competitively appointing a new code manager

## We asked

- Should we include the code manager and delivery body function in a single licence?
- Should we strengthen the licence of NGET to include new code management requirements?

## They said

- Majority do not support licensing
- Most respondents supported including a code manager and delivery body in a single licence - as long as it is done on a case-by-case basis
- Respondents were fairly evenly split regarding whether or not to strengthen NGET's licence

# *Licensing and competition*

## We proposed

- 4 licensing models:
  - licensing precedes/follows tendering
  - tendering is done by Ofgem/another body
- Models have different strengths and weaknesses and may be better suited to some codes than others

## We asked

- What are the merits and drawbacks of the different models?
- Which model(s) may be appropriate for different codes/type of codes?

## They said

- Respondents questioned the benefits case for competitive tendering
- Most respondents would prefer Ofgem running the tenders, issuing licences to the winners
- Few respondents expressed their opinion on which model may be appropriate for different codes; the majority of those would prefer consistency

# *Strategic direction*

## We proposed

- The strategic direction should set out, on an ongoing basis, outcomes Ofgem is aiming to achieve through changes to industry codes
- It should contain:
  - key outcomes to be delivered,
  - roles and responsibilities,
  - 'vision' of cross-code reform,
  - explanation of our priorities
- List of activities and projects to be included in the strategic direction
- Three stage development:
  - establishing the content and the level of detail required
  - defining the responsibilities
  - developing incentives and accountabilities

## We asked

- Do you agree with the purpose of the strategic direction?
- How do you think we should develop and implement it?
- Which Ofgem projects should be included in the strategic direction?
- How much detail would be appropriate?

## They said

- Wide support for the strategic direction, but it should be consulted upon
- Development: consultation is key
- Implementation: importance of the delivery framework underlined
- Most respondents agreed with the projects we suggested, a few recommended including Security of Supply, ECO reform, Priority Services Register and Extending Competition in Electricity Transmission
- The strategic direction should be clear on what needs to be achieved but not restrict how to do it
- Longer term Ofgem projects (+5 years) should be included, at least at a high level

# *Consultative board*

## We proposed

- The key purpose of the consultative board should be coordinating and facilitating the delivery of strategic changes across codes
- List of possible functions for the board
- The consultative board should be capable of making non-binding recommendations to us
- Market participants, code panels, code managers and delivery bodies should have an obligation to provide information to the board

## We asked

- What should be the core role and functions of the consultative board?

## They said

- Respondents generally support for the creation of a consultative board
- A secretariat may be needed
- The consultative board should have powers so it can operate effectively
- The consultative board could proactively seek to spot gaps and overlaps
- Respondents also flagged that the composition and funding of the consultative board are major issues to be decided on

# *Moving to new arrangements*

## We proposed

- The reforms are unlikely to affect the governance of major projects and programmes (eg. switching programme, half-hourly settlement)
- Significant Code Review powers are unlikely to be required once the full package of remedies is in place
- Pros&cons for a staggered approach to run competitive licence applications

## We asked

- How would moving to the new arrangements impact existing projects?
- Will SCR powers be obsolete once the new arrangements are operational?
- What are your views on staggering the implementation of competitive applications for licences?

## They said

- The system is already stretched; moving to the new system will add work so lead to delays with current projects
- Opinions are fairly evenly divided on whether SCR powers will remain necessary
- The majority of the respondents who provided a view on staggering were in favour of it

# Next steps

## **Open letter**

We plan to publish an open letter in June / July. This is to include:

- a summary of the responses received to our initial consultation, and
- an update on our next steps in developing the policy.

## **Strategic direction and consultative board**

During the summer we will focus on these two work streams:

- we will develop the strategic direction and the consultative board, taking into account the consultation responses, and
- we will engage stakeholders on latest thinking.

## **Licensing**

We need legislation to progress with the licensing work stream. We await indication from new government of legislative priorities.

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**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.**