

By e-mail to: codereform@beis.gov.uk and industrycodes@ofgem.gov.uk

Code Reform - Electricity Systems Team
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1 Victoria Street
London
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Ofgem
Industry Code and Licensing Team
Office of Gas and Electricity Markets
10 South Colonnade
Canary Wharf
London, E14 4PU

16 September 2019

Dear Codes Review Team,

Reforming the Energy Industry Codes – ELEXON response

We recognise the importance of the Energy Codes Review and welcome the opportunity to share our observations and comments, as well as practical suggestions on the possible next steps.

As you are aware, ELEXON is the Code Manager for the Balancing and Settlement Code (BSC). We are responsible for managing and delivering the end-to-end services set out in the BSC and accompanying systems that support the BSC. This includes responsibility for the operation and delivery of balancing and imbalance settlement and the provision of assurance services to the BSC Panel and BSC Parties. We manage not just the assessment, but also the identification, specification, development, implementation and operation of changes to central systems and industry processes. This end-to-end model provides expertise in one place for both administration (especially, Change) and systems design and implementation. In addition, such expertise is then available to support the industry, government and regulator in considering future changes and innovation against the existing industry rules, for the benefit of the consumer. Having this breadth of business also allows us to attract, develop and retain talent, providing opportunities for staff to develop in-depth expertise to assist the industry and the BSC Panel.

In addition, through our subsidiary, EMR Settlement Ltd, we are the Electricity Market Reform (EMR) settlement services provider, acting as settlement agent to the Low Carbon Contracts Company (LCCC), for the Contract for Difference (CfD) and Capacity Market (CM). EMR services are provided to the LCCC through a contract and on a non-for-profit basis.

The views expressed in this response are those of ELEXON Ltd, and do not seek to represent those of the BSC Panel or Parties to the BSC.

We summarise our overall considerations in this covering letter whilst setting out our detailed responses to each of your questions in Appendix 1.

1. We support in principle the Energy Codes Reform agenda and its scope of reforming both the codes themselves and of the organisations which provide code services.
2. We support the stated aim of the Energy Codes Reform 'to make the central market arrangements simpler to interact with, follow and comply with for new and existing market participants and are concerned that it should not have the opposite effect so any proposed actions must be carefully tested against this requirement and should be proportionate to the issues they seek to resolve
3. We support the need for strategic direction which, by building on the existing arrangements, could develop a vision for holistic whole system change and introduce mechanisms to provide clear resourcing signals to the industry. Our initial view is that Model 1 with a separate lean Strategic Body is our preferred option and that Ofgem is ideally placed to perform the Strategic Body function.
4. We support an empowered code manager (which can take some but not all of the burden from industry in raising and progressing changes), with responsibility for providing an end to end service (to minimise the risk and costs of hand offs between organisations and maximise coordination), appropriately resourced and funded. A first step would be to identify and build on existing best practices and business models among code administrators.
5. Whilst we support independent decision making, this needs to be defined further; however, it is important to maintain industry's involvement in change decisions via Panels or otherwise, as it ensures proposed solutions are further scrutinised as well as to maintain Ofgem's role as the decision making body on all code modifications which are commercially significant.
6. We support consolidation of code management (rather than just the codes or legal contracts) as a first step and in the meantime believe much simplification could be achieved through applying best practice through all codes, for example, the same change process and the same/similar performance assurance process. Once code management functions are consolidated, cross-code coordination will be faster and best practice can be easily enacted across all of codes run by the code manager. Finally, we believe that consolidation of the code management bodies will probably bring more benefits and can be achieved faster than establishing a new licencing and/or contracting regime (which we believe will be detrimental to industry and the consumer as it will actually reduce cooperation and the sharing of best practice).

Next Steps and Implementation: We believe some further analysis is required to identify root causes for the stated deficiencies in order to devise specific, targeted actions that recognise differences between the existing codes and the ways the codes are managed. Considering the number of strategic change initiatives that the industry is already working on together with Ofgem, code administrators and delivery bodies, we believe it is important to stage the Codes Reform in such a way that 'no-regret', low-cost actions are prioritised and implemented first. We believe there are a number of actions which are within the existing legislative powers of BEIS and Ofgem that could help achieve the desired outcomes within the stated timeframe, i.e. by mid-2020s.

I would like to take this opportunity to assure you of our continued support, should there be elements of the BSC processes or my team's wider energy market knowledge and experience, which may be able to provide further insight or if we can assist in any way.

If you would like to discuss any areas of our response, please contact Angela Love, Director of Strategy and Communications on 020 7380 4156, or by email angela.love@elexon.co.uk or Alina Bakhareva, Strategy and Public Affairs Manager on 020 7380 4160, or by email at alina.bakhareva@elexon.co.uk.

Yours sincerely,

Mark Bygraves
CEO, ELEXON

List of enclosures: **Appendix 1** – Detailed responses to consultation questions
Appendix 2 – BSC Panel Composition



Reforming the Energy Industry Codes - response form

The consultation is available at: www.gov.uk/government/consultations/reforming-the-energy-industry-codes

The closing date for responses is: 16 September (23.45)

Please return your completed form to the following email addresses. As this is a joint review, please ensure you respond to **both** email addresses below.

Email to: codereform@beis.gov.uk & industrycodes@ofgem.gov.uk

If you would like to send a hard copy then please send copies to the following. As this is a joint review, please ensure you send copies to **both** postal addresses below.

Write to:

Code Reform - Electricity Systems Team
Department for Business, Energy and Industrial Strategy
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BEIS and Ofgem will share with each other all responses that are received.

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Please be aware that we intend to publish all responses to this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the

access to information regimes. Please see the consultation document for further information.

If you want information, including personal data, that you provide to be treated as confidential, please explain to us below why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we shall take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

I want my response to be treated as confidential

Comments:

ELEXON is the Code Manager for the Balancing and Settlement Code (BSC) and operates on a not-for-profit basis. We are responsible for managing and delivering the end-to-end services set out in the BSC and accompanying systems that support the BSC. This includes responsibility for the operation and delivery of balancing and imbalance settlement and the provision of assurance services to the BSC Panel and BSC Parties. We manage not just the assessment, but also the identification, specification, development, implementation and operation of changes to central systems and industry processes. This end-to-end model provides expertise in one place for both administration (especially for change) and systems design and implementation. In addition, such expertise is then available to support the industry, government and the regulator in considering future changes and innovation against the existing industry rules, for the benefit of the consumer. Having this breadth of business also allows us to attract, develop and retain talent, providing opportunities for staff to develop in-depth expertise to assist both the wider industry and the BSC Panel.

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Questions

Name:

Angela Love, Director of Strategy and Communications, Angela.Love@elexon.co.uk

Alina Bakhareva, Strategy and External Affairs Manager, Alina.Bakhareva@elexon.co.uk

Organisation (if applicable): ELEXON

Address: 350 Euston Road, London NW1 3AW

Please select a box from the list of options below that best describes you as a respondent. This allows views to be presented by group type.

	Respondent type
<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input checked="" type="checkbox"/>	Code Manager for BSC (Balancing and Settlement Code)

Question 1 [page 17 in consultation document]

Do you agree with our four desired outcomes for the code governance landscape by the mid-2020s?

Yes No Don't know

Please explain.

Comments: We support the overall objective of Energy Codes reform to make the central market arrangements (or industry codes) and systems simpler to interact with for an ever-evolving range of existing and new market participants. We also agree with the stated intent to make central arrangements more agile and responsive to the changing needs of the energy industry, as the industry transitions to a flexible and smart system to support the UK's ambition to reach net zero carbon emissions.

We believe that it is of the utmost importance that the overall outcome of the Codes Reform leads to a reduction in complexity and cost to existing parties and new entrants and, ultimately, consumers, and that it does not have the opposite effect. Any proposed actions must be carefully tested against this requirement and should be proportionate to the issues they seek to resolve.

Given the Codes Reform is looking to achieve its four desired outcomes by mid-2020s, i.e. in five to seven years, the focus for the proposed actions should be firmly set on actionable, practical steps rooted in evidence and cost-benefit analysis. There are a number of actions within the existing legislative powers of BEIS and Ofgem that can help achieve the desired outcomes. We detail these actions in our answers to the individual questions below.

If you disagree, please explain what you consider the outcomes should be.

Comments: [Click here to enter text.](#)

Question 2 [page 17 in consultation document]

Do you agree with the problems we have identified (in chapter 1 – Background – and in later chapters), and that they present a persuasive case for reform of the current framework for energy codes?

Yes No Don't know

Please explain.

Comments:

We fully agree with some of the problems identified by the Review, but only partially agree with others:

- Fragmentation and lack of co-ordination – fully agree;
- Lack of incentive for change – partially agree, as evidence suggests code bodies demonstrate a varying range of behaviours in regard to identifying, assessing and managing changes to codes for which they are responsible;
- Complexity – partially agree.

Fragmentation and lack of coordination

We agree that with 11 different codes and 6 code bodies each having different governance models, ownership, and funding arrangements, the central services landscape is too fragmented to allow for an agile and flexible industry-wide change process. We believe this is one of the root causes of the identified issues and that

fragmentation needs to be addressed as a matter of priority. We detail some practical suggestions in our answers to Q6, Q10, Q28 and Q30.

Lack of incentive to change

We partially agree with this statement, noting that different code bodies demonstrate varying behaviours, and would like to suggest that further targeted analysis is needed, as practices differ significantly across codes. We believe the perceived lack of incentives and differences existing between codes may be connected with the funding models of some and would like to suggest further research into the links between the funding models and the demonstrated range of behaviours is necessary. Moreover, the fragmentation of codes and their complexity can operate as an inhibitor to innovation and change. If that is indeed the case, action to reduce that fragmentation becomes very important.

Complexity

We partially agree with this statement. Codes provide a robust, fair framework enabling the industry participants to be able to function in a highly complex, interdependent system based on the laws of physics. We believe the detailed contractual nature of the codes needs to be preserved, as opposed to introducing principles-based rules, which could be open to interpretation. However, we recognise the fact that market participants may need a better process to engage with the codes and codes bodies and that there could be ways of simplifying the “front end” so that the detail is not as inhibiting as it may appear now. There are already some practices that are deployed to alleviate the engagement process. For example, uniquely at ELEXON we provide nominated Customer Service Managers (Operational Support Managers (OSMs) who are assigned to every BSC party in order to guide them through their BSC obligations and help them maintain their performance at the expected level, as well as helping parties with any queries they may have.

Additionally, we have a dedicated market entry support team, which guides new market entrants through BSC requirements and testing.

In addition to our day-to-day support activities, we also run a number of educational events: introductory seminars and training sessions (face to face and webinars) on specific topics.

At the same time, we recognise the fact that codes have been developed over a long time and not necessarily in a coordinated manner. Therefore, there is a need to:

- 1) look at the design principles for the codes holistically in order to align codes' applicable objectives and practices to the present day needs of the energy industry.
- 2) set a clear objective to the code administrators/managers to streamline and simplify the processes as much as practically possible, every time a code is open for modification.

Overall, we believe that several additional steps need to be taken on the analysis of the existing codes framework and practices in order to clearly identify the root causes:

- 1) the analysis of the existing practices needs to be detailed to the next level to recognise differences between the existing codes and the ways the codes are managed. There are ‘best practices’ that need to be extended across all codes – we detail some suggestions further in our answers to Q9, Q10, Q13 and Q32.

2) In most cases, any code change process involves many actors: industry (proposer, modification group), code administrator, Code Panel, Ofgem; and involves changes to both the code itself (as a legally binding contract on code parties) and corresponding central systems. More evidence is required to identify where delays typically take place. This will allow a targeted list of actions to be devised to rectify specific issues. It is also necessary to extend the analysis to the individual codes, as there are certain parameters of the code change process (e.g., number of alternative proposals, timing for submission of alternative proposals, etc.) that may affect some codes but will be less relevant/irrelevant to others.

Question 3 [page 18 in consultation document]

Do you have additional evidence on the performance of the current framework?

Comments:

In addition to the list of the publications reviewed by the Energy Codes team, we believe the Code Review needs to take into account the following sources of information:

1) Ofgem's Code Administrators' Performance Survey

<https://www.ofgem.gov.uk/publications-and-updates/code-administrators-performance-survey-findings-2018>

<https://www.ofgem.gov.uk/publications-and-updates/code-administrators-performance-survey-findings>

The survey has been running for several years and provides a comparable assessment of code bodies' performance.

2) Codes' own customer service surveys.

Most code bodies conduct a regular survey of customer satisfaction. For ELEXON's annual customer survey results, please refer to the following pages:

- 2018 survey results - <https://www.elexon.co.uk/news/2018-survey-respondents-speak-highly-elexon/> (bottom of this page)

- 2013 - 2017 results - <https://www.elexon.co.uk/switched-elexon-customer-survey/>

We suggest that it would be beneficial for the Review to consider all Code Manager/Administrator's customer satisfaction surveys to see how the different models compare in respect of meeting Code parties' needs.

Question 4 [page 18 in consultation document]

Do you agree with our proposed scope of reform?

Yes

No

Don't know

Please explain.

Comments:

We agree with the proposed scope of the reform. We believe both codes and central systems, as identified, need to be in the scope of the reform. As indicated by the consultation, we strongly believe that DCC (Data Communications Company) should also be included once the process of reform has started.

If not, which additional codes or systems do you think should be included/excluded?

Comments:

We believe the Retail Energy Code (REC) needs to be aligned with the direction of travel outlined by the Codes Review and that this needs to be in sharp focus, including within the current drafting phase. We are concerned that if this is not done, then there is a high potential for the REC to be created and be incompatible to what the review is proposing and trying to achieve. As such, the industry (and, ultimately, the consumer) could face an unnecessary, lengthy and, potentially, costly change process right after the final version of the REC is nominated. The reason for this is that it now appears that the role of REC code manager may potentially be developed in four different bodies; the outcome may therefore actually exacerbate the problems of fragmentation, inefficiency and complexity.

Question 5 [page 18 in consultation document]

Are there any codes or systems that we should only apply a limited set of reforms to?

Yes No Don't know

Please explain.

Comments:

We believe that in order to achieve the desired outcomes for the Codes Reform all codes and systems identified under the Codes Review consultation, need to be under the full scope of the Reform. Additionally, the Central Switching Service (CSS) system that is to be developed under the Ofgem's Switching Programme should be within the scope of the reform.

Question 6 [page 21 in consultation document]

Do you agree that the four areas for reform are required? Please provide reasons for your position and evidence where possible.

Comments:

We agree with some areas more than others and explain our position on each area separately below.

1) Providing strategic direction

We support the concept of a strategic direction. However, we believe any new body or guidance should build on the ongoing initiatives. Specifically, we note that in the last few years there have been several new initiatives to provide strategic direction to the industry, namely:

- Joint BEIS/Ofgem Smart Systems and Flexibility Plan
- Ofgem's Business Plan and, newly published in summer 2019, Ofgem's Strategic Narrative.

We can see real benefits in providing a vision for strategic change and introducing mechanisms to provide clear resourcing signals to the industry.

Steps to ensure there is clarity of accountability are also welcomed to ensure that change is delivered in the interests of consumers and that benefits to consumers and competition are delivered effectively and efficiently.

If taken forward as an initiative, the strategic direction needs to look forward to the next 5-10 years to ensure industry and code managers can plan their costs, resources and any commercial considerations to support strategic change. We also believe that a view of the "whole system" should be considered, not just looking at energy (electricity and gas), but also heat and transport.

However, our experience is that the number of strategic interventions is likely to be quite limited, and that the strategic body should not then get involved in detailed project management.

2) Empowered and accountable code management

We fully support empowered and accountable code management. We believe this needs to go hand in hand with code consolidation to allow a full suite of benefits to materialise. Code managers should have an ability to raise modifications and should be appropriately resourced and funded to progress them, utilising code manager resource to minimise the burden on industry. In this respect, we believe that all codes should be able to rely on the code manager to develop proposals and options for changes and then work with industry to ensure that they dovetail with the wider systems landscape.

3) Independent decision making

More information is required on what exactly is proposed under the heading 'independent decision making'. By their nature, the codes are commercial multiparty agreements between the industry participants and as such require industry's involvement and approval. We also note that all significant code modifications go to Ofgem (more specifically, GEMA) for approval. As such, Ofgem (GEMA) as an independent decision making body, simply takes Code Panels' recommendations into account but, ultimately, makes its own decisions independent of the Code Panels. However, we believe that it is important that Panels which make recommendations to GEMA (or which are responsible for determining self-governance modifications) should include independent members and consumer representatives and ensure that there is limited representation of members from industry/parties of the same or similar interests.

4) Code simplification and consolidation

We fully agree with the code simplification and consolidation proposals. On code simplification, whenever possible (i.e. when a code is open for a change) the code language and processes should be simplified. Elexon has carried out several simplifications recently, but notes that such activity is difficult to incentivise and frequently time consuming. We also believe that there is a lot of simplification that could be achieved just through applying best practices through all codes so that there is the same change

process across all codes or the same/similar performance assurance process across fuels. This should make arrangements easier to understand, not just for new entrants, but also for existing parties and would reduce the burden on parties in engaging with the change processes.

More specifically on code consolidation, consolidation of code management (rather than of the codes as legal contracts) can be the first step. Once the same processes are applied to the consolidated arrangements, the code manager can build a case for consolidating those codes for which it is responsible. We expect this process to be carried out through an industry consultation and for the industry to advise which codes could be consolidated first.

As outlined above, we believe code simplification and consolidation is the first practical step and that is within existing powers of Ofgem and the industry. Once code management functions are consolidated, cross code coordination is also likely to become faster and more streamlined as there would be fewer bodies to coordinate change and similar change processes to enact the changes.

We detail our thinking on code simplification and consolidation further in answers to the Q10, Q24, Q28 and Q29.

Question 7 [page 21 in consultation document]

Do you agree with the two broad models outlined? Please provide reasons for your position and evidence where possible.

Comments:

While more information and detail is required on how each model is envisaged to work in practice, the approximate length of a transition period and a high-level cost-benefit analysis, our initial view is that Model 1 with a separate lean Strategic Body is our preferred option and that Ofgem is ideally placed to perform the Strategic Body function.

As outlined above, we believe that once there are a smaller number of code managers, setting the strategic direction for them and coordinating cross code change is likely to become less onerous and time consuming. Furthermore, there are several ongoing industry wide strategic initiatives led by BEIS and Ofgem, which should already act as a robust foundation for any future direction for code managers.

As noted in our answers to Q10, Q11, Q12, Q13 and Q14 strategic direction can become a mechanism to provide clear resourcing signals for the industry for the next 5-10 years.

There is risk, however, that such a Strategic Body, in the case of unclear responsibilities and accountability, would introduce additional costs and a new tier of governance. We strongly believe it needs to be constituted in a way, which does not introduce unnecessary bureaucracy or costs, or any blurring of responsibilities.

If the preference is to place the Strategic Body functions with another entity rather than Ofgem, we believe Model 2 (IRMB) is a preferred option as it reduces the number of hand-offs and interfaces between different organisations. However, we also note that Model 2 comprises a very wide set of responsibilities/span of control, and could act as “judge, jury and executioner”, which is not good governance.

Question 8 [page 21 in consultation document]

Which model do you believe will best deliver on our desired outcomes? Please explain.

Comments: Model 1, if the Strategic Body responsibilities are placed with Ofgem. For details, please see our answer to Q7 and Q10.

If the Strategic Body functions are placed elsewhere, we prefer the second model (Integrated Rule Making Body) as it will reduce the number of hand-offs between different organisations, will lead to faster decision making and, ultimately, will reduce the lead time from identifying a need to change codes/central systems to the change implemented.

Question 9 [page 21 in consultation document]

Do you agree with the changes to the role of code signatories we are proposing?

Comments:

We believe clarity is required on the enduring role of industry code panels. Industry code panels, and also workgroups where industry can participate in shaping the change proposals, are important 'check and balance' mechanisms in the code management and change process, and also serve to ensure that change proposed to central systems dovetail with parties' systems, which have to interface with them.

It is not clear how the existing code panel responsibilities will evolve, or exist at all, in light of the proposals to make code managers owners of their respective codes with powers to raise, prioritise and approve changes to their respective codes.

For example, the current BSC Panel comprises a wide cross section of members from across industry (who are required to act independently of their employing organisation), consumer groups and independent members as well as Ofgem, meaning that before going to Ofgem, a modification proposal has been thoroughly reviewed by an independent group of experts, making sure that the modification solution is robust. We note that following the Knight Review (<https://www.elexon.co.uk/wp-content/uploads/2013/07/The-Governance-of-ELEXON-Final-Report.pdf>) of the BSC governance arrangements the distinct roles of Elexon and the BSC Panel have been clarified, and the relationship between the two bodies operates much more effectively. Such clarity is required of the Code Review.

Please see a separate note on the BSC Panel composition and BSC panel constitution.

Question 10 [page 29 in consultation document]

Do you agree there is a missing strategic function for codes development in the energy sector and that introducing a strategic function with the responsibilities outlined in chapter 3 is the best way to address the lack of strategic direction?

Yes No Don't know

Please explain.

Comments:

We partially agree with the statement that the strategic function is missing for code

development. We believe that de-facto Ofgem has been fulfilling this role through its participation in code panels, sometimes in working groups, and most certainly, through the final decision making powers on the code modifications. In addition, Ofgem has also stepped in and provided strategic direction, and in some cases management and assurance, around major industry changes, such as Project Nexus and the Centralisation of Switching arrangements.

We believe Ofgem already has the necessary powers to continue driving code development but needs to be able to apply those powers in a consistent manner. In this regard, we recognise that Ofgem is neither funded nor resourced to take on programmes on the scale of the examples we have given (Project Nexus and the Centralisation of Switching), therefore there is a role for empowered code managers to take on these duties, to deliver strategic programmes (such as SCRs) on behalf of the Strategic Body (if that body is Ofgem).

Who is best placed to fulfil the strategic function and why?

Comments:

We strongly believe that Ofgem is the right entity to fulfil the strategic function. Ofgem already has a range of existing powers to drive code development and cross-code coordination, so there would not be any delay in devising and requesting any new powers/lines of responsibility as would be the case if another organisation were to become the Strategic Body. Moreover, it would be challenging for Ofgem to perform its wider regulatory roles without the inclusion of codes oversight that Ofgem currently has.

We believe the following suggestions should significantly improve the landscape of code services without the need for new legislation or new body:

- 1) Amending code panel and code manager/delivery body objectives in the existing codes/licences including a specific Applicable (or Relevant) Objective under each code that refers to the need to consider benefits to consumers.
- 2) Inserting appropriate Ofgem oversight of change into codes (where there is no such oversight).
- 3) Adding step-in powers into industry codes (equivalent to the BSC).
- 4) Utilising more fully the existing Significant Code Review (SCR) powers, which were intended to allow Ofgem to drive strategic change.
- 5) Code managers/delivery bodies to set out plans and budgets and share them with their stakeholders, whilst setting out the priorities and activities that will be delivered, together with how they align with the strategic direction (set out by Ofgem).
- 6) Ofgem to take a more proactive and strategic approach to articulate its position on proposed changes, when participating and contributing to industry panels and workgroups.

For example, provisions already exist in the BSC that give Ofgem and GEMA considerable influence over change. This includes the capability for the Authority to, at any time, request that the BSC Panel re-prioritise Modifications, and amend timetables for the development, assessment and implementation of changes. The Authority is also able to direct NG ESO (the licence holder) to step in to deliver the BSC Modification process where ELEXON (or the BSC Panel) has failed to comply with the Modification procedures or any Authority direction in relation to the Modification procedures. Ofgem has never felt the need to execute such provisions; however, as these provisions do not extend across all codes, equivalent provisions should be replicated in all codes, as this would give Ofgem the option to have more influence in the change processes of all codes.

Furthermore, Ofgem has the Significant Code Review (SCR) mechanism at its disposal to marshal major cross-code change. As outlined above, Ofgem could utilise its SCR powers and could ask code managers to lead on specific pieces of work or project manage changes under these processes.

Question 11 [page 29 in consultation document]

Do you agree with the objectives and responsibilities envisaged for the strategic function, and are there any additional objectives or responsibilities the strategic function should have?

Comments:

As highlighted in our answers to Q6 and Q10, we believe there is already significant strategic level effort ongoing on the industry-wide basis.

Where more clarity and guidance are required from Ofgem is on specific modification solutions while they are being developed by a working group.

Question 12 [page 29 in consultation document]

How may this new function potentially impact the roles and responsibilities of other parts of the framework? Do you foresee any unintended consequences?

Comments:

In terms of unintended consequences, we believe there is a risk the new function will introduce another level of bureaucracy, potentially different decision making, and cost. The stated overall objective and expected outcomes could be achieved by other means, as detailed in our answer to Q10, using existing powers and without encountering the delay associated with the introduction of a new body or developing new powers.

Question 13 [page 29 in consultation document]

What are your views on how the strategic direction should be developed and implemented (including the option of establishing a strategy board to aid engagement)?

Comments:

In general, we believe the strategic direction should focus on required outcomes, rather than dictating the details of required changes. The time horizon should be greater than 3 years (e.g. 5-10 years) to facilitate longer-term planning consistent with the needs of industry parties to consider change programmes and investment decisions. The direction should also allocate clear responsibilities for supporting and delivering outcomes. We note there may need to be changes to existing codes in order to recognise and accommodate the strategic direction.

We believe there needs to be a renewed focus on the development of code administrator workplans. These workplans could provide significant value illustrating how industry codes will need to develop to deliver Ofgem's stated strategic direction.

For example, ELEXON has already developed a forward work plan with the BSC Panel for the purposes of assessing the future change landscape that will impact the BSC. This work plan has been well received by industry. We have also worked with our code administrators across the industry to implement a cross-code forward work plan. We believe this activity and the resulting plan, with support and encouragement from the strategic body, could be an important component in better co-ordinating change and in supporting the development and maintenance of the strategic direction.

Together, Ofgem's strategic direction and the industry code workplans would enable industry parties, code panels, administrators and delivery bodies to monitor and allocate capacity and resources across the portfolio of change. Code panels, administrators and parties would also be able to better interpret what should be considered as 'material' for the purpose of determining their relative position in the change process.

Question 14 [page 29 in consultation document]

Do you think that the scope of the strategic function should be limited to taking account of the Government's vision for the energy sector and translating it into a plan for the industry codes framework, or are there other areas it should address (for example, impact on vulnerable consumers)?

Yes No Don't know

Please explain.

Comments: In addition to our comments to the Q6 and Q10, we believe the strategic function needs to focus on developing an understanding how the energy (electricity and gas) markets will be interacting and supporting heat and transport electrification.

Question 15 [page 36 in consultation document]

Do you agree that in addition to the current responsibilities that code administrators have, that the code manager function should also have the following responsibilities?

a. identifying, proposing and developing changes (analysis, legal drafting etc.), including understanding the impacts;

Yes No Don't know

b. making decisions on some changes, or making recommendations to the strategic body; and

Yes No Don't know

c. prioritising which changes are progressed.

Yes No Don't know

Please explain.

Comments: Please see Q6 for details of our thinking on empowered and accountable code management and Independent decision-making.

Question 16 [page 36 in consultation document]

What is the best way to ensure coherent end-to-end changes to the codes and related systems? For example, is it through having end-to-end code and system managers?

Comments:

We strongly believe that the end-to-end model leads to consolidating expertise applicable to both:

a) administration of the market arrangements (especially change), and
b) systems design and implementation,
which in turn, allow a code manager to provide more integrated change service and support to market participants.

In addition, such expertise is then available to support the industry, government and regulator in developing new policies and market mechanisms for the benefit of the consumer.

We believe that end-to-end services are an essential pre-requisite for effectively co-ordinating the implementation of the strategic change to ensure there is no conflict of resourcing and planning across the end-to-end process. We would suggest that it would be beneficial, for example, to consider the end-to-end model against a fragmented (and arguably, siloed) approach by comparing the BSC process against the UNC in gas. Under the BSC ELEXON performs the end-to-end service of the Code Manager, whereas under the UNC services are spilt between the Joint Office (change administration), Xoserve (the central system delivery) and Gemserv (the contracted performance assurance provider). An end-to-end model avoids unnecessary duplication or potential for something to be missed, and naturally drives towards more timely development and decisions on changes.

Question 17 [page 36 in consultation document]

Should the approach differ on a case-by case basis (i.e. depending on the code or system in question)?

Yes No Don't know

Please explain.

Comments:

We believe there needs to be a drive to ensure as much consistency as practically possible for all the industry codes and central systems. Therefore, we do not support the view that the approach needs to be devised on a case-by-case basis.

If the new approach to design differs on a case-by-case basis, it will not be much different from the present systems where codes have been developed and introduced as and when needed with no common design or architecture principles.

This unstructured approach has led to codes with scope and content that is inconsistent

with codes that are already established and being used to operate the industry arrangements (e.g. each section containing differing levels of detail and prescription). As noted in our answers to Q10, Q13, and Q32, we strongly believe that best practices need be identified and consistently applied across all codes as a first practical step. We believe this is achievable and will result in real and tangible benefits for the existing and new industry participants ahead of the timeline noted under the Codes Review, i.e. by mid-2020.

Question 18 [page 36 in consultation document]

Do you agree that the code manager function should be accountable to the strategic body and that this should be via a licence or contract?

Yes No Don't know

Please explain.

Comments:

We are unsure of and have concerns about how the concept “that the code manager should be accountable to the strategic body” would work in practice. Codes are commercial multi-party agreements, which the industry participants are required to have through their licence conditions. Therefore, unless licence conditions change (which could take until beyond mid-2020) we believe that there will be no opportunity, at least in the short term, for the code managers to be accountable other than to the industry. This may give an opportunity to see whether or not concerns over industry influence prevail under the new arrangements, which are introduced.

Moreover, in the event that code bodies are made accountable to the strategic body, the strengths of having an independent code body – objectivity, good engagement with industry, the critical friend role – are potentially lost.

We have several observations on the licence or contract proposal, which was initially recommended by the CMA investigation report.

Licensing

We do not believe a licence regime is a necessary, timely or proportionate approach for delivering the intended changes to the codes and a desired pace of change for the industry's central arrangements. In addition, it is unclear if a licence for code managers is being suggested to bring about the changes or only after the changes have been introduced. Nevertheless, in either case, obligations and duties can be imposed upon the Code Manager by including them in the Code itself (or the contract of services if one exists). To create a third document in which to include obligations introduces at best duplication and at worst the risk of conflicting priorities. Furthermore, licensing requires legislation, which itself is time consuming and would not have legislative priority, and we are concerned that licensing has the potential to increase cost and complexity.

As outlined in our responses to Q6 and Q10, we strongly believe that it is possible to achieve the desired outcomes in a much more timely and proportionate manner, using Ofgem's existing powers by:

1) Amending code panel and code manager/delivery body objectives in the existing codes/licences including a specific Applicable (or Relevant) Objective under each code

that refers to the need to consider benefits to consumers.

2) Inserting appropriate Ofgem oversight of change into codes (where there is no such oversight).

3) Adding step-in powers into industry codes (equivalent to the BSC).

4) Utilising more fully the existing Significant Code Review (SCR) powers, which were intended to allow Ofgem to drive strategic change.

5) Code managers/delivery bodies to set out plans and budgets and share them with their stakeholders, whilst setting out the priorities and activities that will be delivered, together with how they align with the strategic direction (set out by Ofgem).

6) Ofgem to take a more proactive approach to articulate its position on proposed changes, when participating and contributing to industry panels and workgroups.

Contracting

While appearing to add value/control through the ability to re-tender contracts on a regular basis, we believe contracting, similarly to licensing, will increase the cost of central services while the benefits remain undefined and unquantified. Once it is established to whom the Code Manager is accountable, then stakeholders should have the ability to remove (and threaten to remove) directors of the Code Manager. This is a much more effective and timely mechanism to ensure the Code Manager is delivering to the desired objectives than to have to terminate the contract for services or wait for the opportunity to retender it. After all, if the Code Manager is replaced then under TUPE requirements all of the staff would transfer and there would be a need to novate systems and assets so the result of such an exercise is simply the replacement of the Code Manager leadership team. As stated above, this same outcome could be achieved by giving such a power to the stakeholder(s) to whom the Code Body is accountable.

We believe that consolidation of the code management services will probably bring more benefits and can be achieved faster than establishing a new licensing and/or contracting regime. It will allow industry parties to have a reduced number of interfaces for managing code activities and changes. In addition, consolidation will improve cross-code coordination and harmonisation of change and change processes.

Please note questions 19- 26 only apply in respect of Model 1 (code managers and a strategic body).

Question 19 [page 36 in consultation document]

Are there more effective ways that the code manager function's accountability to the strategic body could be enshrined other than in a licence or contract?

Comments:

Yes. As set out in our response to Q18, once it is established to whom the Code Manager is accountable, then stakeholders should have the ability to remove (and threaten to remove) directors of the Code Manager. This is a much more effective and timely mechanism to ensure the Code Manager is delivering the desired objectives than to have to terminate the contract for services (or licence) or wait for the opportunity to retender it. After all, if the Code Manager is replaced then under TUPE requirements all of the staff would transfer and there would be a need to novate systems and assets so the result of such an exercise is simply the replacement of the Code Manager leadership team. As

stated above, this same outcome could be achieved by giving such a power to the stakeholder(s) to whom the Code Manager is accountable.

Question 20 [page 36 in consultation document]

Do you agree that we should not consider further a model whereby the code manager function is accountable to industry?

Yes No Don't know

Please explain.

Comments: We believe the code manager function could remain accountable to the industry in the medium term to test whether the new arrangements address the concerns over industry influence. Please see our answers to Q18 for the details of our position and supporting evidence. As stated above, there are a number of practical improvements, which can deliver the desired outcomes in a timely and cost-efficient way.

Considering the number of strategic change initiatives that the industry is already working on together with Ofgem, code administrators and delivery bodies, we believe it is important to stage the Codes Reform in such a way that 'no-regret', low-cost actions are implemented first, while more evidence is being gathered and more analysis is prepared on some more radical suggestions and whether they are likely to deliver the expected benefits and within what timeframe.

Question 21 [page 37 in consultation document]

Do you have views on whether the code manager function should be appointed following a competitive tender process or other competition?

Yes No Don't know

Please explain.

Comments: We do not agree that the code manager function should be appointed following a competitive tender process or other competition. There are a number of reasons for this view:

- 1) There is likely to be a requirement to transfer all staff under TUPE arrangement to a new code manager.
 - 2) the code manager functions (where the services extend beyond committee and administration support) require specialised and, in some cases, unique knowledge and expertise. This means that in case of a competitive tender, the subject matter experts from an existing code manager will be needed as their expertise and knowledge will be required to maintain the processes defined under a code. So, the only practical change the tendering process will be achieving is the change in the Board/Executive team.
- However, there are more cost-effective and expedient ways to achieve the same

outcome if a code administrator/manager is found to underperform or to consistently do so.

3) Tendering is likely to be counter-productive to collaboration between code managers and (for example) sharing best practices between the code managers as the companies, having to prepare for tendering, will want to maintain their competitive advantage. This, we believe, will slow down the low-cost improvements that are much needed to bring the code managers' performance to a consistently high level. We are already seeing this happen, given the proposals in this review, with a reluctance to share best practice or pursue joint initiatives.

4) The cost of participating and running a tender will, ultimately, be charged back to the industry and, therefore, to consumers. This will achieve the opposite effect to the stated desired outcomes for the Codes Reform.

Question 22 [page 37 in consultation document]

Do you think the code manager function should be established by the strategic body creating a body or bodies?

Yes No Don't know

Please explain.

Comments: We believe it will be prudent to maintain a practical approach, taking into account the present industry's set-up and structure and, most importantly, a range of ongoing industry-wide strategic initiatives.

There are already six bodies responsible for code administration and central systems delivery. Rather than undertake an exercise of 'designing the industry structure from scratch', there is more to be achieved through the improvements to the existing services and bringing the service providers to the same level in terms of their performance standards, service offering, business model and funding arrangements as detailed in answers to Q6, Q10 and Q23.

If the code managers were established in this way, would we need to consider any alternative approaches to funding or accountability?

Yes No Don't know

Please explain.

Comments: It is important to have a similar funding model and approach to accountability (as practical as possible) across all code managers and central services delivery bodies.

At present, there are for profit, not-for-profit, licensed and price controlled entities operating in the central market services space. In our view, an assessment needs to be conducted to look at the level of business risk taken by such organisations and the right type of funding model to reflect the business risks taken by an organisation performing code manager functions. In addition, we believe that an analysis should be considered to look at what behaviours each of the funding arrangements drives and which behaviours

are sought from the Code Managers, and indeed the Strategic Body, if this is not Ofgem. The same should be the case for the Integrated Rule Making Body, under Model 2.

Additionally, if Code Bodies were no longer to be accountable to industry, we anticipate industry will expect the current funding arrangements, whereby the costs of the Code bodies and their operations and systems are borne by industry, to be reconsidered.

Question 23 [page 37 in consultation document]

In terms of establishing/choosing the code manager function, do you agree that we should not consider further:

a. requiring an existing licensee to become the code manager; and/or

Yes No Don't know

b. requiring a licensee (or group of licensees) to create the code manager?

Yes No Don't know

Please explain.

Comments: Please see our responses to Qs20-22 above, particularly around the operation of TUPE.

Question 24 [page 37 in consultation document]

What would be the most effective way to ensure the code manager function offers value for money (for example, through price controls or budget scrutiny)? More broadly, what is the right incentive framework to place on the code manager function?

Please explain.

Comments:

Ensuring the code manager function offers value for money.

As explained in our answer to Q18, we believe licensing will represent an additional cost to the industry and, ultimately, for the consumers, for a yet unclear and unquantified benefit. We note that code-related bodies currently licensed (e.g. DCC) do not offer evidence of improved value for money.

Therefore, budget scrutiny is an appropriate, proportionate and effective way to ensure the code manager function offers value for money. Consideration could also be given to the benefits or otherwise of code manager services being provided on a not-for-profit (or not for distribution) basis. Additionally, if code manager services are all structured similarly, it will be easier to compare and benchmark them and drive continuous improvements.

For example, under the BSC, ELEXON is required to publish its detailed budget and business plan for industry comment. Through this open process, the industry has a clear mechanism to provide feedback, request clarifications and amendments to the budget and hold ELEXON to account for any overspent amount. Over the years, ELEXON has never

overspent but rather returned any unspent budget back to the BSC parties. ELEXON has also reduced its total costs by over 60% since its creation in 2001. We believe that the existence of a high quality Board and independent NEDs is a major factor in ensuring good governance and value for money.

Further thoughts on the right incentive framework.

Incentives may be based on a system of KPIs (Key Performance Indicators), rewarding code managers when KPI levels are achieved. However, further consideration is needed over the business risk profile of the code manager function, as profit/reward is a function of the level of risk undertaken by an organisation during its activities so before rewarding a Code Manager through incentives, the risks or downside of the code manager should be clear. Additionally, it needs to be assessed whether an incentive drives a different behaviour or simply rewards for service levels that are otherwise delivered by a professional organisation.

Question 25 [page 37 in consultation document]

Are there any factors that:

a. would stop parties (including code administrators) from becoming a code manager?

Yes No Don't know

b. should prevent parties from becoming a code manager (e.g. do you agree that licensees should not be able to exercise control of the code managers)?

Yes No Don't know

Please explain.

Comments:

a) At present, code administrators have a range of business models and functions, with some of them already offering a nearly full range of code manager services. Others offer more basic services focused on providing committee meeting support and secretariat services. This is based on the historic evolution of services, allocated budgets and funding arrangements. We believe that the level of funding, available resources and required skills could, perhaps, stop some code administrators from transitioning into a code manager role.

b) We strongly believe that the code manager should be fully independent and not have any vested interest in the arrangements they manage. We also agree that the issue is one of control rather than ownership since there are examples of companies owned by another company but expressly not controlled or accountable to them. For example, ELEXON is wholly-owned subsidiary of National Grid ESO, but is fully independent. We are also fully independent of industry groups through the way the BSC Panel is constituted.

Question 26 [page 37 in consultation document]

How should the code manager function be funded (for example through licence fees or by parties to the code(s))?

Please explain.

Comments: We believe the funding mechanism should remain the same, i.e. code management and corresponding central systems delivery should be funded through parties to the codes. However, as the costs for code management are not passed through to retail customers (under the price cap), there could be a scenario where suppliers are unwilling to accept additional funding requests when such requests are made by code managers.

More analysis is needed on the appropriate funding model (NFP, for profit, price control, licensed) based on the available information on the range of existing models, behaviours demonstrated, and customer survey results achieved by different code administrators over last several years in order to conclude what funding model is driving the desired behaviours and customer service.

Question 27 [page 44 in consultation document]

Are there any quick wins that could be realised in terms of code consolidation and simplification?

Comments:

As discussed in our responses to Q10, Q18, and Q32 we believe there are a number of suggestions that can lead to streamlining, aligning and simplifying the interactions with codes for the existing and new industry participants.

Question 28 [page 44 in consultation document]

How many codes would best deliver on the outcomes we are seeking under these reforms?

Comments:

BEIS/Ofgem will be aware of a three-code model put forward by ELEXON for an industry-wide discussion to explore views and opinions on a best possible way to consolidate industry codes as a precursor to their simplification.

Furthermore, to make an additional contribution to the debate on the Codes Reform, we commissioned an independent analysis by Cornwall Insight, a leading consultancy on the energy markets, to look at six different options for consolidating the energy codes.

Cornwall Insight analysed six potential new code governance structures:

- *Horizontal alignment model* – ELEXON's original proposal
- *Vertical alignment model* – where the wholesale, networks and retail aspects for gas and electricity are separated into two individual fuel specific codes
- *A single code* – for the entire gas and electricity arrangements

- *Upstream/downstream split* – two dual fuel codes, one for downstream retail activities and the other for upstream wholesale, settlement and system operation functions
- *A framework agreement* – a single ‘core’ code containing the standard code functions, with specific separate ‘arms’ to deliver technical and specialist functions
- *Dual fuel retail, single fuel upstream* – a dual fuel retail code (to maintain the dual fuel aspects of the Retail Energy Code and Smart Energy Code), and two single fuel codes each covering the upstream, network and market functions.

The most important take-away point from the analysis is that all of the options would be an improvement on the current arrangements, when assessed against the objectives BEIS and Ofgem have set for the Codes Review. Cornwall Insight’s analysis ranks the framework agreement, the horizontal model, and the dual fuel retail / single fuel upstream and downstream model as positive overall.

The detailed report can be found here:

<https://www.elexon.co.uk/about/elexon-insights-independent-analysis-backs-the-case-for-code-reforms/> or requested from ELEXON.

We believe the Codes Review should identify ‘no-regret’ options for code management functions consolidation that can be implemented relatively expediently as a first step. Once this first step is agreed upon and has been implemented, further consolidation options can be proposed and assessed in parallel. This will allow for a phased or choreographed approach to Codes Review implementation.

Once one code manager is in charge of several codes, it can drive best practices across all of its codes, as a first round of improvements, and in time can work with the industry on the actual code consolidation.

Question 29 [page 44 in consultation document]

Which option (one code manager versus multiple) would best deliver on the outcomes we are seeking under these reforms?

Comments:

While a transition to a fully consolidated model (one code manager) could be a long-term aspirational goal, which we would support (provided the cost-benefit analysis supports it); in the short to medium term, consolidation of two or several code management functions under one organisation would be preferable to bring early benefits. The experience and practicalities of consolidating different bodies and business models into one can then be used and applied subsequent efforts.

Question 30 [page 44 in consultation document]

Which of our consolidation options would best deliver the outcomes we are seeking to achieve? Please provide evidence for your examples.

Comments:

Option C. Partially consolidate by industry activity type, partially consolidate by fuel as an

initial step with further cost benefit analysis to be undertaken. We agree with the observation in the consultation that this approach should build on the precedent set by REC which delivers a dual fuel code for all retail elements.

If there are further quick wins to consolidate other codes identified through the present consultation, they should be taken forward as well during the initial phase of code manager functions consolidation.

Question 31 [page 44 in consultation document]

Do you agree that the codes should be digitalised?

Yes No Don't know

Please explain.

Comments: Yes, we fully agree that codes should be digitalised. Since the understanding and the interpretation of the term 'digitalised' varies widely across industry participants and codes, we believe, the first step that will lead to codes' digitalisation is the consolidation of code management functions.

Question 32 [page 47 in consultation document]

What role should industry have in monitoring code compliance or making decisions on measures needed to address any identified non-compliance?

Comments:

The processes and techniques for monitoring compliance with codes obligations are defined under the individual codes if there is a compliance function in the code (e.g. BSC and UNC have performance assurance regimes).

As with other elements of the codes landscape, the performance assurance and compliance monitoring is better developed under some codes and is still in its infancy under others. There may be other codes where compliance monitoring is not required or established.

We believe this may be one of the quick wins if the arrangements that are considered best practices are extended for other parts of the energy codes framework.

As an example, under the BSC, ELEXON operate a PAF (Performance Assurance Framework), which is a risk-based continuous monitoring process for BSC parties' performance under the code obligations. We have expressed interest in performing this function for the UNC (Uniform Network Code).

To provide more details on ELEXON's role – a part of ELEXON's role as code manager of the BSC is to monitor the compliance of all BSC parties and to run Performance Assurance activities. There are a number of techniques that ELEXON uses to confirm compliance or identify issues that may need to be addressed.

The Performance Assurance Framework (PAF) is in place to provide assurance that:

- Energy is allocated between Suppliers efficiently, correctly and accurately
- Suppliers and Supplier Agents transfer Metering System data efficiently and accurately
- Calculations and allocations of energy and the associated Trading Charges are

performed within the BSC requirements.

ELEXON use the techniques to assess whether there are any active issues or risks that might impact on Settlement and where a BSC party may not be meeting their obligations. These techniques are divided into 4 categories:

- Incentive
- Preventive
- Detective
- Remedial

Some of the techniques are deployed on a cycle (e.g. BSC Audit is an annual activity) and others are deployed on an ad hoc basis.

The industry can be involved with the Performance Assurance processes through the PAB (Performance Assurance Board), which is coordinated by ELEXON. The PAB is not open to anybody; those becoming PAB members need to be qualified for the role, sign up that they will act in the interests of the market and that they are not there representing their employer's interest.

The PAB has the ability to call parties to account for their performance and put in place plans to improve their performance and have the plans monitored.

One benefit of the PAB is the failing organisation can access expertise and advice effectively for free on how to improve their performance.

There is no evidence at all that industry involvement in BSC performance assurance leads to leniency or other bias (as might be implied by the question). In conclusion, we believe industry should continue to be involved in compliance of industry in support of an informed and resourced code manager.

Question 33 [page 47 in consultation document]

Which of the two models we propose would better facilitate effective monitoring and compliance arrangements?

Please explain.

Comments:

Neither. The monitoring and compliance (also known as performance assurance) regime is defined under each applicable code (where such a regime is deemed as necessary) along with a range of mitigation techniques and tools that the Code Manager can apply to a non-performing party.

ELEXON does not believe an extra suite of, presumably, high-level monitoring and compliance activities could add enough extra benefit and assurance to justify the extra costs.

Instead, we suggest that a more detailed analysis is conducted on the current performance assurance regimes in electricity and gas in order to identify best practices and any potential gaps, so that best practices can be extended and applied as one of the quick wins.

Please note this question only applies in respect of Model 2 (integrated rule-making body).

Question 34 [page 47 in consultation document]

With Model 2 - integrated rule-making body - should the IRMB have responsibility for imposing measures (where a party is non-compliant with the code) or should this be for another organisation?

Please explain.

Comments:

In case the IRMB route is chosen, the performance assurance regime should be part of the integrated strategic body and code manager function.

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcome

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BEIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

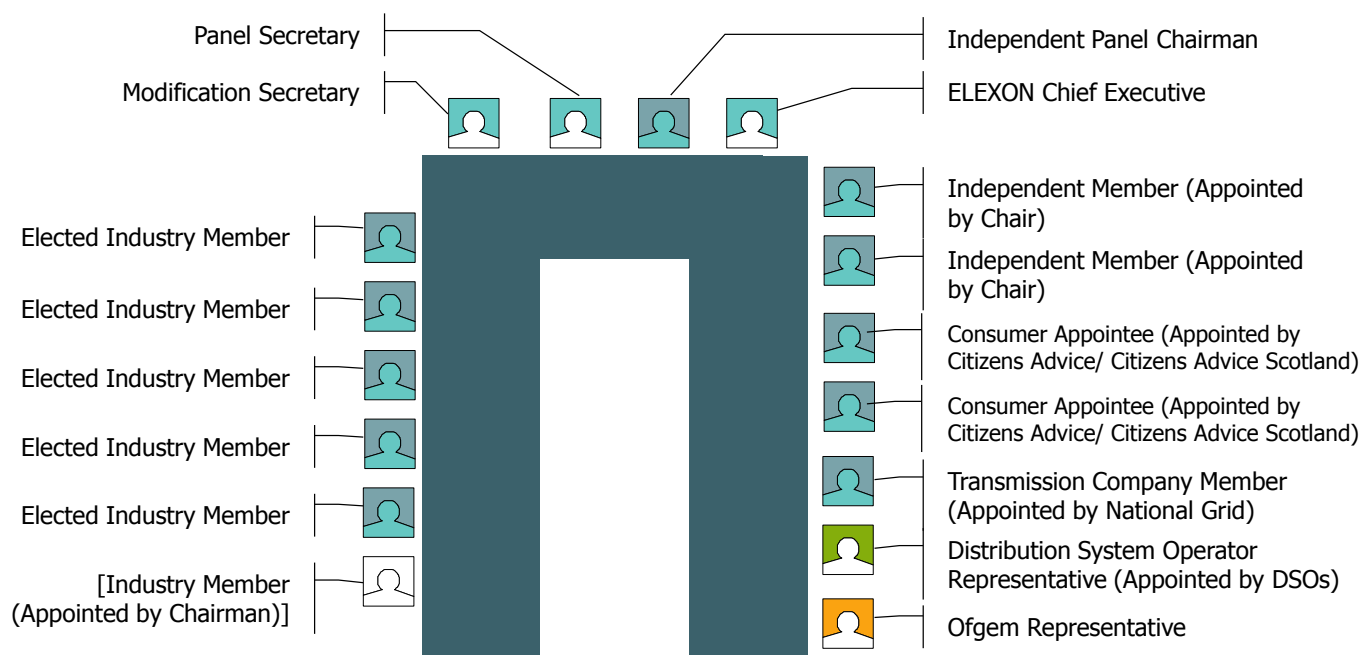
No

THE BSC PANEL COMPOSITION

ELEXON, often seen as the leading provider of code services, as demonstrated through its own independent customer survey and through Ofgem's cross-code surveys, believes there are a number of lessons to be learnt from how the BSC Panel is constituted and operates.

The BSC Panel model is frequently cited as one of the better models for ensuring broad representation of stakeholders to feel they are engaged and their views understood within the code panel. Below we show what the BSC Panel looks like and highlight the benefits of such a model.

The BSC Panel



Key beneficial features:

- All Panel Members are required to act impartially and not as representatives of any organisation/sector. This means that when they vote on changes they are required to explain their reasons as to why changes would make the arrangements better or worse than currently, using 'Applicable Objectives' developed by Ofgem.
- The Panel has clear objectives set out in the BSC, which includes the need for the Panel (and ELEXON) to give effect to the Code 'without undue discrimination between Parties or classes of Parties' and also to ensure that 'there is transparency and openness in the conduct of the business'.
- An independent Chair.
- Two members appointed by organisations representing consumers (Citizens Advice, however Ofgem has the power to assign to other consumer groups).
 - Citizens Advice as the consumer representative also has the ability to bring forward changes.
- Five industry members, elected by BSC Parties every two years:
 - Voting rights for Panel elections are aligned to the concept of 'Trading Party Group', this effectively levels the playing field between large and small Parties (so a big 'Trading Party Group' gets the

THE BSC PANEL COMPOSITION

- same number of votes as a small, non-vertically integrated BSC Party and no Party can dominate voting by having multiple 'Parties').
- Results of Panel elections are published on the ELEXON website.
- Updated Trading Party Groups and their constituent BSC Parties are published monthly on the ELEXON website.
- The Chair can appoint an additional 'industry member' where he feels that a particular area of insight from the industry is missing.
- Two members who are independent of BSC Parties are appointed by the Chair, these have historically included individuals who have expertise in policy, economics or governance from academic or (non-energy specific) industry.
- A member appointed by the Transmission Company but does not vote on modifications.
- A person appointed by Distribution System Operators as their representative but does not vote.
- A person appointed by Ofgem as their representative but does not vote.
- As the BSC code 'manager' ELEXON's Chief Executive attends but does not vote. ELEXON also provides an independent Modification Secretary and Panel Secretary.
- An annual public BSC meeting where anyone, not just BSC Parties, has the opportunity to hear from, and question the BSC Panel and ELEXON as the code manager.
- For Modifications overseen by the Panel:
 - ELEXON, as the independent expert code manager, chairs the majority of any change workgroups.
 - Although not required to do so, most Panel members do not normally participate in the working groups appointed to assess change, where they do they have abstained from voting on the final changes when returned to the Panel.
 - Although not required to do so, most Panel members do not vote on changes that have been proposed by their own company.
 - Proposers of changes can be invited to speak at the Panel when their changes are being considered and the Proposer of a change 'owns' their solution.