

Energy UK's Response to Ofgem's Energy Code Governance Reform Consultation

26 January 2023

Call for input questions

Code Consolidation

Q1: Do you agree with the design principles proposed to frame our assessment of code consolidation options? If 'no', please explain why.

Energy UK mostly agrees with the identified design principles. Ofgem should also ensure that any option minimises disruption to ongoing programmes of work, such as charging reform and the development of the Future System Operator.

There also needs to be recognition that while the code changes for new code governance arrangements may be agreed quickly, the ability to implement them may be constrained because of lead times associated with changes that may be needed to central systems.

There should be an assessment of the value for money provided by any consolidation, particularly given that the Cornwall Insight analysis was purely qualitative, and omitted any cost-benefit analysis.

Q2: What are your views on the high-level options for code consolidation we have described ('no consolidation', 'vertical' & 'horizontal')? We welcome input on the possible benefits/disbenefits of each option.

Any code consolidation must be approached from the perspective of those that interact with the codes. and we welcome any steps taken to open up access to the codes that enables all market participants to effectively engage and understand them. Therefore, as a first principle, codes should only be combined where it is appropriate and where efficiencies can be made.

There may be merit in combining aspects of the codes that fit logically together, rather than combining codes in a vertical or horizontal way. For example, if a battery company is looking to develop new assets, they would have to contend with connections aspects of the DCUSA, Grid Code and CUSC. Combining the connections schedules of these codes could make them more user friendly. However, any change would be a considerable undertaking and a cost benefit analysis would need to be carried out to justify it.

Energy UK agrees that horizontal consolidation should not be considered further. Different fuels are inherently different, so horizontal consolidation doesn't make sense beyond the retail level; it would likely lead to an inefficient code with alternate paragraphs referring to gas and electricity.

Energy UK notes that this consultation omits consideration of future codes for hydrogen and carbon dioxide. Clarity on the future regulation of these sectors, and whether they will be adopted into existing arrangements, would be welcome.

Q3: Do you agree with our initial preference to explore vertical code consolidation options and, if so, do you have any observations on the potential models set out in Cornwall Insight's April 2022 report? We welcome specific views on the following:

- **Whether the UNC and IGTUNC should be consolidated;**
- **If/how to consolidate the electricity codes;**
- **Whether the REC and SEC should remain separate; and/or**
- **Whether the consolidation of any codes should be prioritised, and if so, why.**

As stated previously, Energy UK welcomes any steps taken to improve engagement with and understanding of the codes. We believe that many of the proposed design principles could be achieved through simplification and digitalisation of the codes in their existing form, and that adding provisions into codes in the name of consolidation, that don't necessarily apply to all parties, may have the opposite effect. For example, a practical, single, digitised 'front-end' for all codes could be deployed to enable industry parties to easily and more efficiently navigate the arrangements.

The focus for Ofgem should be on areas that can most quickly and easily be delivered. Radical code consolidation could be a very resource-intensive task for all affected parties. Therefore, codes should be consolidated only when appropriate and in the areas which lend themselves best to this. We suggest that the technical (distribution and grid) codes and the gas codes have the most to gain in terms of efficiency, improved accessibility and simplicity. However, this would need to be fully scoped, planned and costed before taking this initiative further.

We also agree that REC and SEC should remain separate, we do not believe that there are significant synergies in place that would benefit from the amalgamation of these codes.

Reducing the number of codes, or the number of meetings that relate to their governance should not be objectives in and of themselves. It is unlikely that there would be a single group of people with competence across all areas of a consolidated code, and sufficient engagement is key to gathering expertise. However, Energy UK recognises that current engagement with codes is time-consuming, with some stakeholder groups underrepresented. We would welcome efficiency improvements in these processes, with best practice made common, which could be delivered without the need for a costly, time-consuming code consolidation exercise. Further quick wins that would improve code governance include an updated Ofgem Strategy and Policy Statement and a net zero objective shared across Ofgem and the codes.

There are also issues with cross-code coordination that could be resolved in the absence of consolidation, through a greater role for CACoP for example, and through Ofgem enforcement as the Strategic Body. We also wish to highlight recent meetings of Code Manager CEOs to coordinate a response to this consultation. Such a group could provide a key forum for providing exec-level buy in for sharing best practice.

Further improvements within the current framework include sharing best practice in governance of Codes and more effective prioritisation of code changes, working with Ofgem and stakeholders in a transparent way. We provide more detail on this importance of stakeholder engagement in our answers to the SAF questions.

Q4: Do you agree with our preferred implementation approach (Option 2)?

- **If so, do you have any additional observations on what we should consider when further developing this approach, including which code provisions should be considered within the scope of governance arrangements?**
- **If not, please provide details.**

Energy UK would like to note the scale of work necessary to deliver net zero and the importance of focussing resources on programmes of work that add value and accelerate delivery. It is vital that any

consolidation does not hold up necessary reforms that take the industry towards net zero. We would suggest that code reform is relatively low priority, given the state of the market and the workload of industry and Ofgem.

We welcome Ofgem's strategic role in Code Governance, which we feel will negate the risks of changes being introduced that contradict each other. For example, we note that whilst NGESO is currently relying heavily on demand-side response, at the same time, Ofgem is removing the triad avoidance scheme. These moves appear contradictory and would benefit from strategic oversight.

However, with no information on how Stakeholder Advisory Forums will operate in practice, Energy UK is concerned that Ofgem's proposals will lead to an environment where it dictates change to industry and there are limitations placed that restrict effective stakeholder engagement. Ofgem must recognise that it will not have all the skills, knowledge and expertise to develop and manage every code change alone. Stakeholder input and engagement, using their pool of practical expertise and knowledge, will continue to be critical in order to deliver change that delivers the desired outcomes.

Energy UK would welcome further clarity on the shared governance arrangements proposed in Option 2. Some overarching shared governance provisions would be welcome, such as a shared modification process, accession, enforcement and credit arrangements, however, we note again that this could be delivered without code consolidation.

Code Manager Licensing

Q5: Are any of the contents we have identified for the licence conditions unnecessary, or, would be more effectively covered outside of the licence (eg in the codes)?

Whilst Ofgem sets the Strategic Direction for Code Managers to deliver, there are day-to-day proposals which may not be clearly aligned with any strategic direction, but which are necessary and of merit. Energy UK would like confirmation that industry change proposals are to be treated fairly in the prioritisation process and that the delivery plan is not static and can flex to accommodate this type of proposal. Any prioritisation decisions must be open to challenge by industry, and we would welcome clarification on the proposed dispute process.

Energy UK would support an alternative solution to Code Manager licences, where as many provisions are retained in the codes as possible, and the licences are kept high-level. The example of NGESO's ownership of the CUSC and Grid Code shows that licences are far more onerous to change than the codes, so moving provisions into licences would appear contradictory to the stated objectives of Code Reform.

Energy UK would like to reiterate our concerns that it's not clear who would be fined if a Code Manager is found in breach of its licence. This is particularly pressing in the case of Elexon where it is expected that industry will assume ownership.

Q6: Are there any additional areas that should be subject to licence rules?

No answer.

Q7: Do you agree with our indicative prioritisation for policy development, and do you identify any specific dependencies that you think we should factor into our policy considerations?

No answer.

Q8: Are there any issues that we should take into account when considering moving the current 'code owner' licence provisions to the new code manager licence (such as unintended consequences)?

This question is not clear. Energy UK's understanding is that it refers to NGENSO's licence, which allows them to prepare and amend the Grid Code and CUSC, and states their objectives. These provisions would be moved to new Code Manager licence.

We assume that the reason for this is that an entirely new entity could take over management of the Grid Code and CUSC. Moving code management responsibilities away from the Future System Operator is something we would welcome, as we'd prefer them to focus on their core roles of strategic planning and system operation. The chosen Code Manager must have the skills, knowledge and experience to ensure these codes support the delivery of a net zero energy system.

As stated, in response to question 5, Energy UK would favour a slimmed down licence where provisions would be moved from the code owner licence into the code, rather than into a new licence.

Stakeholder Advisory Forum

Q9: What do you think the stakeholder advisory forums' key roles and/or functions should be, and what areas (other than code change) should the forum(s) potentially have a role in?

Energy UK is supportive of Code Managers having more control over raising and prioritising change, as we believe that this will lead to more efficient code changes. However, we would welcome further clarity on the role of the Stakeholder Advisory Forums. We note that whilst the Code Manager will facilitate industry discussions through the Stakeholder Advisory Forum, the advice provided would not be binding and therefore may not be incorporated.

The framework for the Stakeholder Advisory Forum must be transparent and empower industry experts to add value in the delivery of changes that directly impact them. Therefore, any outcome of code reform must maintain the codes' accountability to industry, and we believe that this should be delivered by the Stakeholder Advisory Forums, as the equivalent of the current code panels. The panels play a hugely important role in providing a check to both the code managers, and on the outputs of workgroups, the membership of which is largely self-selecting. It is critical that Code Managers continue to make use of industry's practical experience and knowledge to deliver change that works for all.

Energy UK would again raise serious concerns that the power to shape change is being removed from the industry. If Ofgem's strategic direction is set through the Strategy and Policy Statement and then Code Managers carry it out and prioritise accordingly, this excludes industry from participation. Neither Ofgem nor the Code Managers have the experience to understand the priorities of the whole industry.

If the role of the Stakeholder Advisory Forums is to be purely advisory, Energy UK would welcome clarity on the route to appeal Code Manager and Ofgem decisions. The opportunity to dispute a direction from Ofgem or a Code Manager would provide comfort to industry and lead to more robust decision-making.

Q10: What options/issues should be considered in terms of constituting the stakeholder advisory forum(s), in terms of membership and securing appropriate representation?

It is key that Stakeholder Advisory Forums are representative of those impacted by code change, and that if user types are to select representatives, that they are obliged to act independently and not just represent their own commercial interests. Ofgem should set out how it expects representation of all stakeholders to be secured.

Q11: Are there any lessons learnt (either good or bad) from the current code arrangements that should be considered?

A welcome aspect of the Retail Energy Code is that anyone can raise change. However, the change process is too slow and the Code Manager needs to have sufficient expertise, skills and experiences to be able to understand priorities as well the need to deliver strategic direction.

It is imperative that Ofgem and Code Managers are properly resourced with the right skills, knowledge and expertise in order to effectively deliver their roles. In order to measure this, we think it is appropriate to seek stakeholder views on the performance of the strategic body and of code managers

Currently, the high resource requirement to take part in code modification working groups has meant that often only large incumbents are able to engage with change. In turn, this has made it easier for commercially driven changes to be proposed and approved without challenge.