

CUTTING RED TAPE: ENERGY REVIEW - ELEXON COMMENTS

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A range of industry codes, such as the Balancing and Settlement Code (BSC), are established under the provisions of various licences awarded by Ofgem. There are many codes, each setting out detailed rules and obligations and each with its own governance structure. Each code is overseen by an industry code panel, supported by a code administrator delivering services to the signatories of that industry code. Since industry codes are multi-party contracts, the rules, requirements and technical specifications they contain must be clear and unambiguous so as to provide certainty to parties to these contracts.

ELEXON is the code administrator for the BSC. We are a wholly owned, arms-length subsidiary of National Grid. Our delivery of impartial services to the industry is underpinned by our not for profit status and our ownership structure (which mitigates the risk of undue influence by electricity suppliers or generators both collectively and individually). Such impartiality is particularly important in relation to the assessment and implementation of change and the provision of assurance that parties to the BSC comply with its requirements.

Industry code panels and code administrators such as ELEXON were established as reactive entities. However, we believe a more pro-active and strategic approach is needed. In particular, we have developed a forward view of significant programmes and industry change that informs the work of the Balancing and Settlement Code (BSC) Panel (see the [BSC Panel Strategic Work Plan](#)). It may be that industry code panels and/or code administrators need additional powers to better support the timely delivery of industry-wide changes. Nevertheless, code panels and code administrators have an important role to play, engaging with each other and with energy companies to support the efficient and effective delivery of innovations and improvements where changes to industry codes are required.

We offer every BSC Party and Party Agent an Operational Support Manager (OSM) to provide dedicated support. OSMs provide tailored education, discuss performance and operational issues, listen to feedback on BSC activities and the operations of the BSC and provide information on BSC events and developments. OSMs help to identify process or performance failures at an early stage and reduce the risk that such failures escalate into more significant matters under the BSC's assurance and compliance regime.

We also publish a range of educational materials in plain English, including simple guides to the detailed technical arrangements set out under the BSC. When new parties accede to the BSC we provide training and advice and we highlight other relevant provisions (i.e. other industry codes) that new parties may need to consider.

Feedback we have received from BSC Parties indicates these support services are valued and we continue to share our expertise regarding the delivery, governance and assurance of balancing and settlement arrangements in support of significant industry programmes and innovations where we are able to do so.

Greater efficiency in energy code administration and regulation

We have made detailed observations regarding the regulatory environment as it relates to the BSC in our responses to Ofgem's proposed Code Governance Review and the CMA's provisional findings and notice of possible remedies. Many of ELEXON's comments are equally relevant to the wholesale market as well as the retail market concerns contemplated by the CMA.

Key themes include:

- Provision of a one stop shop or 'front of house' service: This could ease new entrants' and existing participants' experience of industry code governance. One of the service's stated aims should be to facilitate smaller participant engagement in all codes and it could be used to facilitate management of a change pipeline;

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- *Collation of an industry change programme:* This could enable more efficient planning and allocation of industry resources. Such a change programme might also encompass a longer term change strategy tied into the various domestic and European policy and change initiatives;
- *Establishing a cross-code expert group to consider changes:* This might offer a single mechanism for the industry to provide input on solutions to policy proposals at an early stage and develop a strategy for (or facilitate the design of) cross-code change (e.g. to support the introduction of new business models);
- *Powers to better co-ordinate change:* There would be merit in granting powers to code administrators (and industry code panels) that could make the initiation and development of modification proposals more efficient (particularly in relation to industry programmes of change and the introduction of new business models which may impact multiple industry codes). This might include the capability, subject to appropriate checks and balances, for code administrators to raise changes to industry codes;
- *Early engagement by Ofgem:* Early engagement in the consideration of industry code changes by Ofgem can help ensure that assessment work meets the Authority's needs, thereby reducing the risk of delays arising from duplication of effort or because further work needs to be undertaken;
- *Consistency of objectives:* Providing for consistency across the relevant applicable industry code objectives and also between industry codes objectives and those of Ofgem could reduce the risk that complementary changes arising under different codes are not progressed as a result of being assessed against different principles;
- *Consolidating code administration:* Appointing fewer code administrators would mean industry parties have a reduced number of interfaces for managing code activities and changes. It would also drive further consistency in code administration;
- *Consolidating code governance arrangements:* This could be achieved by recasting and, where possible, simplifying industry codes into a small number of codes or using the opportunity for planned cross-code changes to consolidate elements of the current codes.

We strongly believe it is essential to avoid further proliferation of code administrators. Any consolidation of industry code change processes or services should avoid undue complexity and deliver processes that are simple yet flexible enough to be pragmatic in application.

We do not believe that material benefits would arise from the CMA's proposal to make the roles of code administration and delivery of code changes a licensable activity when compared to the status quo under the BSC. Unlike other industry codes, the BSC already affords Ofgem and the Authority a substantive degree of oversight in these areas. However, we do support equivalent oversight provisions being implemented across all industry codes.

We do not support the CMA's proposed remedy to create an independent code adjudicator to determine which code changes should be adopted in the case of dispute. It is not clear how or why a new body would resolve disagreements between parties over code changes more quickly than is the case with the current appeal mechanisms and it may adversely impact coordination between industry code change governance, licence modifications and legislation.

The full details of our responses are published on the ELEXON website:

- [ELEXON response to Ofgem's proposed Code Governance Review](#); and
- [ELEXON response to the CMA's provisional findings and notice of possible remedies](#).

We would be happy to provide further information and discuss potential improvements in support of this review going forward.

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ELEXON
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