

ELEXON VIEW: Code Governance Reform



This briefing note offers an ELEXON view of Ofgem's proposals on Industry Code Governance reform (implementing the Competition and Markets Authority's (CMA) recommendations). ELEXON is the code manager and delivery body for the Balancing and Settlement Code (BSC). We are responsible for managing and delivering the end-to-end services set out in the BSC, delivering balancing and imbalance settlement and the provision of assurance services to the BSC Panel and BSC Parties. We manage the assessment, development, operation and implementation of changes to central systems and processes.

For further information please contact communications@elexon.co.uk (REF: Code Reform).

Overview

Ofgem has [consulted](#) on its progression of three recommendations made by the Competition and Markets Authority in its [Energy Market Investigation](#):

1. Licensing of code managers and associated central delivery bodies;
2. Setting a strategic direction for code development; and
3. Establishing a consultative board.

Ofgem's overriding objective for its proposals is **'to achieve greater coordination across codes for identifying and delivering strategic change that benefits consumers and competition'**.

Expected outcomes from Ofgem's reforms

Ofgem anticipates its proposed reforms will result in:

- A vision for strategic change led by Ofgem with clear lines of accountability for delivery.
- A system of code governance that allows strategic change to be delivered in the interests of consumers and potentially speeding up delivering benefits to consumers and competition.
- A clear signal for industry on where to deploy resources.

ELEXON recognises the challenge for Ofgem of obtaining primary legislation in the near future to help drive this. We believe there are simpler and timely proposals that will achieve the overall objective.

Provisions already exist in the BSC that give Ofgem and the Gas and Electricity Markets Authority 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 National Grid (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 had the need to execute such provisions, however equivalent provisions should be extended across all codes.

Ofgem has the Significant Code Review (SCR) mechanism at its disposal to marshal cross code change. 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.

ELEXON view

We recognise the need for greater co-ordination across codes and support this overriding objective.

We also support a 'responsibilities re-set' that provides for autonomous, empowered, proactive code bodies. This is an important component in achieving the overall aim.

However, it is important that the overall outcome of the CMA's work leads to a reduction in complexity and cost to existing parties and new entrants and not to have the opposite effect. The recommendations and proposed actions must be carefully tested against this requirement and should be proportionate to the issues they seek to resolve.

Code Governance Reform

ELEXON has a long and proud history of successfully providing support for strategic change in collaboration with industry and Ofgem. This is demonstrated through providing expert advice and guidance on activities such as the smart metering technical solution, our [proposals](#) for moving to full half hourly settlement (first submitted to Ofgem in 2012 and then taken on by Ofgem under its Smarter Markets programme), our work on developing the original Code Administrators Code of Practice (CACoP) and our innovations in Code management ([cross code forward work plan](#), cross code forums, provision of dedicated support for users and extensive training and guidance services). ELEXON recognises that these services are highly valued by users and they score highly in our independent customer surveys and in Ofgem's recent survey across all Code Administrators where we scored highest for net customer satisfaction. We have been able to provide this support through clearly signposting our activities and costs through transparent budget and planning activity. Ofgem should require equivalent provisions to be extended across all codes.

In short, whatever key provisions Ofgem would seek to include in a licence, could be included instead in each code to the same effect, in a more efficient and proportionate manner (and without the need for primary legislation).

It is therefore possible to achieve the desired outcomes in a more timely and proportionate manner and using existing Ofgem powers by:

1. Amending code panel and code manager/delivery body objectives in the existing codes/licences including relative prioritisation by Ofgem of such objectives if necessary
 - a. include a specific Applicable Objective under each code that refers to the need to consider benefits to consumers
2. Inserting appropriate Ofgem oversight of change into code provisions
3. Adding step-in powers into industry codes (equivalent to the BSC)
4. Appropriate empowerment of code managers to raise changes
5. The provision by Ofgem of a strategic direction (in accordance with Ofgem proposals)
6. Utilising the existing SCR powers, as they are intended to drive strategic change
7. Code managers/delivery bodies required to provide a service based on plans and budget that has been transparently shared with the stakeholder community setting out the priorities and activities to be delivered in alignment with the strategic direction, based on operating models Ofgem believes best delivers the objective
8. Ofgem take a more active approach in, and articulate its position more, when participating and contributing to industry Panels and workgroups
9. Industry and Ofgem support for the current initiatives to develop a cross code forward work plan and plan for implementing European Network Code changes

Consultative Board: Uncertainty remains regarding the role and powers of a consultative board. However if a board was established that added value and did not introduce unnecessary cost and bureaucracy we would see the potential for it to provide oversight (with code manager/delivery body participation) to develop and manage cross industry plans for delivering strategic change. It could also create a feedback loop between Ofgem revising strategic direction and taking advice from the consultative board in setting any revised direction.