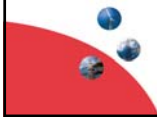


Code governance review A small supplier view

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What I will cover...

- Major Policy Reviews and Self Governance
- Role of Code Administrators
- Small participant/consumer initiatives

Major policy reviews (1)

- **The key** to addressing the “fundamental flaw”
 - a single “joined up” process
 - avoid piecemeal modifications and assessments
- Single identifiable process increases awareness and transparency and facilitates engagement
- Side-steps complexities of fragmented modification rules (e.g. Cusc too open-ended, BSC too constricted)
- Pre-empts strategic modification behaviour
- In comparison **most other changes second order**

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Major policy reviews (2)

- How could an MPR be initiated?
 - Ofgem or
 - triggered by industry participant raising mod in key strategic area
- Filtering option B
 - prefer industry allocates, with Ofgem ability to veto
 - filtering criteria seem appropriate
 - but also power to “call in” and “send back”
- High level binding conclusions
 - underpinned by Licence changes
 - Panels required to deliver review conclusions
 - then modification process and code mods in “usual way”⁴
- Energy Act appeals protect against “judge and jury”

Self-governance (1)

- Logical and should not be non-controversial:
 - cost savings and efficiencies (probably)
 - not about Ofgem resourcing but about placing responsibility where it best sits
- Supervised by independent panels
 - no representative panels, independent chairs
 - no voting by constituency – Panel determines, gives reasons
 - BSC not DCUSA
- Consumer and small participant involvement clearly desirable
 - but can only be optional unless funded
 - bolster role of code administrator (more on this later)

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Self-governance (2)

- Most non-technical changes would be assigned to path 2 anyway
- Right of referral to regulator if defined number of parties object to path 3
- Code administrators able to raise modifications
- No harmonisation, but code of good practice
- Having three paths does not of itself foreclose need for developmental streams

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Role of code administrators (1)

- Need for consistency
 - between codes
 - in quality of outputs, template and guidelines
 - disseminate good practice, code of practice
- Increased accountability and transparency
 - independence and “board” structure
 - set objectives and measurable performance targets, including “scorecard”
- Preference for critical friend over active secretariat
 - but not status quo
 - see merit in administrators owning modification group reports

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Role of code administrators (2)

- Independent company and board structure
 - arm’s length approach/independence/ enhanced transparency
- Service contracts/commercial tenders
 - greater control for industry and more accountability
- Should funding arrangements be revisited for Elexon?
 - yes because of:
 - fiction of current ownership
 - artificiality of Board/panel split
 - lack of participant engagement in BSCCo business
 - but how?
 - offer all trading parties a share
 - let trading parties determine if they want to broaden scope of activity

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Smaller consumer/participant issues

- Prefer option 4, Duty on code administrators to assist small participants, etc
 - assist in more inclusive and accessible code processes
 - solicit views from small participants/ consumer groups
- Not option 1 as panel representatives should be (predominantly) independent
- Nor option 2:
 - as no guarantee Advocacy Panel (2A) would be representative, and amenable to capture
 - as Consumer Focus (2B) not properly funded for its current remit
- Cannot see how option 3 would work

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Conclusions

- Strengths of many underlying design principles...
- ... but major problems flow from fragmentation and lack of developmental processes
- Disappointing that Panels and code administrators have not taken proactive steps nearly 18 months on following announcement of review
- Considerable scope for improvement irrespective of action to tackle “fundamental flaw”
- Light touch solutions would be a poor return after so much analysis and debate
- Incontrovertible evidence that basic change is needed

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