

## Assessing the Impacts of Code Governance Review Phase 3

### 1. Purpose

This paper sets out to the iGT UNC Modification Panel the key final proposals of the Ofgem's Code Governance Review (CGR) programme – phase 3, and includes recommendations for the next steps that the Modification Panel should seek to take.

### 2. Background

In 2010, Ofgem's CGR implemented measures to improve the governance arrangements in three of the main codes which underpin the gas and electricity industry arrangements. In 2013, the second phase of the CGR extended many of the outcomes to the remaining industry codes, including the iGT UNC. The reforms were aimed at reducing unnecessary barriers and red tape, and ensuring significant code change could be delivered more effectively.

In May 2015, Ofgem issued an open letter noting concerns that the code governance arrangements may not be operating in the best interests of consumers and that it was timely to review the code governance reforms that had been implemented. In October 2015, Ofgem published Initial Proposals for further reform.

On 31<sup>st</sup> March 2016, Ofgem published its Final Proposals for further reform, taking account of the responses received to the Initial Proposals, and feedback from a Code Administrators' workshop held in December 2015, attended by Gemserv as Code Administrator to the iGT UNC. Ofgem has invited responses to the Final Proposals by 28<sup>th</sup> April 2016.

### 3. Overview of Final Proposals

There are four key areas to Ofgem's Final Proposals with potential impact on the iGT UNC, with respect to:

- Significant Code Review;
- Self-Governance Process;
- Code Administration; and
- Charging Methodologies

### a. Significant Code Review

Ofgem is consulting on three main options with respect to changes to the Significant Code Review (SCR) process, with proposed legal text drafted for the licence changes required to implement the options. The three options are:

- Ofgem directs licensee(s) to raise modification proposal(s) - at the end of the SCR process Ofgem to issue a direction to the relevant licensee(s). The modification(s) would follow the standard code modification processes. This is understood to be largely aligned with existing processes in the iGT UNC.
- Ofgem raises modification proposal(s) - at the end of the SCR process, Ofgem to raise a modification(s) directly under the relevant code(s), and the modification(s) would follow the standard code modification processes.
- Ofgem leads an end-to-end process to develop code modification(s) - the standard industry process would not apply; Ofgem to lead consultation and engagement needed to develop the appropriate code change(s). This requires close industry involvement (e.g. via Ofgem lead workgroups).

Ofgem has developed an illustrative diagram in respect of the options (see Appendix 1).

### b. Self-Governance Process

Modification Proposals should now be assessed as to whether they require an Authority Decision: i.e. why a Modification **is** material, rather than why it is not. The intention of this proposal is that more changes will proceed to be considered via the self-governance route wherever appropriate.

Furthermore, Ofgem has proposed that Code Administrators will lead work to support Ofgem in developing guidance on materiality criteria and the self-governance process. Ofgem expects Code Administrators to work together to produce the guidance that can be applied across all codes. Input from code panels will be required, and wider industry will be consulted if appropriate.

### c. Code Administration

There are several areas of Code Administration activity that are impacted by Ofgem's Final Proposals:

#### Guidance on Critical Friends

Following the code administrators' workshop in December 2015, Ofgem published a [Critical Friend – Top 5](#) guidance document, which has been published on the iGT UNC website. Ofgem has recommended that Code Administrators continue to develop the guidance, and that it is rolled out across all codes.

**Visibility of the Code Administration Code of Practice (CACoP) and the Critical Friend role**

Each Code Administrator is to have a dedicated CACoP page, to contain all information relevant to CACoP and the principles to which Code Administrators have agreed. The iGT UNC Website has already developed a page dedicated to CACoP.

**Self-Governance and Review of CACoP**

Ofgem had initially considered that a self-governance process may be introduced into CACoP development. The Final Proposals note that this will not be the case. Key input into any developments of CACoP should be reflective of the outputs from the metrics and surveys. If housekeeping changes to CACoP are identified, Code Administrators are to establish a process to record these changes so they can be submitted for Authority approval alongside any more substantive changes.

**Qualitative Survey**

Ofgem to commission an independent third party to undertake a cross-code survey, with the final report to be published on the Ofgem website. Ofgem considers that Code Administrators should fund this survey and are consulting on five options for allocating the costs across the various code bodies in the [consultation in respect of the surveys and metrics](#), closing on 28<sup>th</sup> April 2016. Options for funding the survey include distributing the costs equally or proportionately across the eleven codes listed in the CACoP, splitting the costs between the six organisations undertaking code administrator functions. It is likely that this proposal will result in an increase cost of code administrator activities.

**Quantitative Metrics**

Ofgem are to prescribe the exact data to be collected and Code Administrators are to fill out data collection forms on a quarterly basis and submit their results to Ofgem to be published on its website. Subject to the [consultation in respect of the surveys and metrics](#), Ofgem expect to implement this through approving a change to CACoP Principle 12 (the Code Administrators will report annually on agreed metrics).

**Managing Code Changes and Cross-Code Coordination**

Code Administrators are to continue with population of the cross-code modifications register, put in place to assist Code Administrators with the identification of changes to other codes that may affect their own. Code Administrators will be expected to follow a joint process for cross-code modifications, and will monitor the performance of the process where modifications follow it.

Separately, Code Administrators, with support from code panels, will initiate work to explore how to develop an effective forward work plan for each code.

## **Standardisation of Modification Process and Templates**

A standard modification template to be used across all codes. A template has been developed and approved by Ofgem which is heavily influenced by the model used by the Joint Office. The iGT UNC adopted the UNC templates in 2013; therefore, whilst there will be changes required to the iGT UNC documentation, the look and feel of the templates will be largely the same.

## **Identifying Consumer Impacts**

A consumer impacts section to be included in every modification proposal template, and should be continually assessed throughout the modification process. The iGT UNC already includes a consumer impacts section in its modification documentation.

## **Code Administration Coordination**

The annually rotating CACoP 'host' Code Administrator will coordinate across all codes the implementation of the Final Proposals and lead on cross code coordination on an enduring basis.

## **Independent Panel Chairs**

Ofgem will not be adding a licence requirement to appoint independent panel chairs where this does not already exist, but careful consideration should be given in the appointment process on a candidate's ability to act independently (i.e. impartially). This does not affect the iGT UNC, which already appoints an independent chair.

## **Independent Workgroup Chairs**

Code Administrators shall undertake the workgroup chair role, unless there is a conflict of interest. There is no change required to iGT UNC processes.

### **d. Charging Methodologies**

Charging methodologies are not applied under the iGT UNC; consequently, there are no foreseen impacts on the Final Proposals relating to charging methodologies.

## **4. Summary**

Subject to the responses received on the two consultations, Ofgem will be publishing the Statutory Notices on the licence changes, followed by a direction to make the changes, by summer 2016. Most of the changes are straightforward to implement. There may be changes required to SCR processes subject to the option to be progressed. The Modification Panel may also consider the process by which a forward work plan for the iGT UNC will be initiated.

The consultation deadline is 28<sup>th</sup> April 2016; the Modification Panel may consider whether the iGT UNC should draft a response to either or both consultations, or whether parties would be prefer to respond independently.

**Paul Rocke**

**13<sup>th</sup> April 2016**