

Via Email

Consumer Futures response to Entso-E/Acer's joint consultation on the role of stakeholders in the implementation of network codes and related guidelines, and in particular the establishment of European Stakeholder Committees for network code implementation

This response was prepared by the Consumer Futures Unit of Citizens Advice. It has statutory responsibilities to represent the interests of energy consumers across Great Britain. This includes engagement in the governance of GB electricity and gas markets in GB, as the statutory consumer representative on the Balancing and Settlement Code (BSC) and Uniform Network Code (UNC) modification panels.

General comments

Consumer Futures welcomes the opportunity to comment on the role of stakeholders in the development of EU network codes and guidelines. We expect that the success of the codes will depend upon the effective engagement of energy consumers (and other market operators) in the drafting process, as well as in the implementation of the codes on the national level.

We would stress, however, that this dialogue needs to be structured to facilitate contributions from organisations that do not (and will not) engage in the technical discussions underpinning these codes, on a regular basis. This additional step is particularly important in view of the large volume of materials generated, within which only a relatively small number of provisions will likely have a direct (though potentially significant) consumer impact.

We note that the consultation document presents a general outline of the proposed stakeholder engagement framework, leaving open a number of important operational questions (as described below). We respectfully recommend therefore that a wider consultation of consumer bodies and other market stakeholders, not currently engaged in the network code discussions, should be held when these details have been further elaborated, in order to assess how far these proposals align with their resource limitations.

In the meantime, we would like to share the following observations on the engagement model outlined in the consultation document.

The proposed approach

The consultation document envisages the creation of European Stakeholder Committees and expert groups. As noted above, a process is needed that facilitates input into the drafting and amendment of the codes, as well as their national implementation, from external stakeholders with varying degrees of technical knowledge. We would suggest that a combination of the two types of forums offers an opportunity to do this.

- i. A possible structure for consumer input into the stakeholder committees:

On the basis of our role in the GB network panels, we would recommend that the structure of the Committee and the single IT platform should accommodate input by consumer representatives without necessitating full participation in all the meetings.

- ii. The elaboration of one of the proposed expert groups into a stakeholder forum

The successful operation of the codes will depend on their ability (and adaptability) to meet users' needs. Consideration should be given to the elaboration of one of the expert groups into a forum operating across all three of the proposed code families. This forum could support the early communication (and where necessary training) for external stakeholder groups on the (upcoming) market changes. The proposal for such a two tier dialogue is based on the expectation that some of

these groups are unlikely to be in a position to (or find value in) develop(ing) the expertise to fully participate in the committee process.

Questions and concerns

There is little detail in the consultation on the terms of reference for the proposed committee and expert groups, in particular whether the intention is that they perform an information sharing and advisory role to support the implementation process, or alternatively a key role in the code amendment process. The consultation document is also silent on how the membership of these committees would be determined. It is therefore difficult at this stage to fully reply on the approach. Nevertheless we have a number of observations and questions that are prompted by our GB experience on code governance panels.

The first and perhaps most important observation is that although GB network codes have provided for the relatively stable governance of the electricity and gas markets, they have been continually amended, not only to reflect market conditions and government policy developments, but also correct drafting errors and other defects that inevitably emerge in documents of this size and complexity. In the UNC for example, over 500 modifications have been proposed since 2003.¹ We expect a similar need for change to emerge with respect to the European network codes.

In the GB context, stakeholder groups made up of industry and consumer representatives, with oversight from the regulator, have played a key role in considering and providing recommendations on amendments and we believe a similar model may have merits in the context of the European network codes.

If such a model was to be contemplated, there would be a range of questions that need to be addressed about the composition, operation and function of the Committees in the context of code amendment.

First, would they have a decision-making or merely advisory role? If they are assigned the capacity to make decisions what would be the process for the approval and formalisation of these conclusions? Furthermore, within what timeframes would the Committees consider and decide and/or make recommendations on amendment proposals? Noting that circumstances do arise where codes need to be amended urgently, would a separate process be created to expedite change and/or short-term derogations? These issues have been considered at different times as part of reviews of GB code governance and we would draw your attention to a report by the Brattle Group that might help inform your deliberations on the arrangements for these committees.²

Finally, the nature of the interaction/relationship between the EU and Member States would need to be considered. In our experience at a GB level, representation from the different parts of the supply chain (e.g. transmission, distribution, retail) and consumer groups, is essential for a balanced consideration of the merits modification proposals. It may be difficult to bring this balance to a committee for the EU network codes if it was based on representation by member states, where the nuance of how the codes are functioning are lost in the process of negotiating an agreed position to take to the committee. If membership is assigned to the representative European associations of the respective stakeholder groups, consideration should be given to the numbers of seats to be assigned to each in order to allow an effective input from the national markets.

We thank you for the opportunity to submit our views on the approach to stakeholder engagement on the network codes and remain at your disposal if it would be helpful to discuss any of the points raised here.


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¹ <http://www.gasgovernance.co.uk/closedmods>

² http://www.brattle.com/system/publications/pdfs/000/004/861/original/Critique_of_the_Industry_Codes_Governance_Arrangements_Hesmondhalgh_Jun_2008.pdf?1378772135