REA Response:
Consultation on the Design and Delivery of the Energy Code Reforms

The Association for Renewable Energy & Clean Technology (REA) is pleased to submit this response to the above consultation. The REA represents a wide variety of organisations, including generators, project developers, fuel and power suppliers, investors, equipment producers and service providers. Members range in size from major multinationals to sole traders. There are over 500 corporate members of the REA, making it the largest renewable energy trade association in the UK.

1. **To what extent do you agree with our proposals on the licensing of a code manager for engineering standards, and why?**

The REA are supportive of proposals for a single party to be made responsible for the coordination of engineering standards across energy codes. This would lead to simplification of administrative practice and would likely increase the consistency of the engineering standards.

We would, however, highlight that such a code manger may be best run by, or at least be closely associated with, the gas and electricity transmission operators themselves. Given that engineering standards concern the use and integration of hardware, it is the operators of that hardware that will have the best technical knowledge to inform engineering standards, while a code manger can then also take strategic direction from either Ofgem (option 1) or within the IRMB (option 2).

2. **What are your initial views on how central system delivery bodies should be regulated (including their relationship or integration with code managers and the extent to which licensing may be appropriate), bearing in mind this will be the subject of future consultation?**

Conflicts of interest should be avoided as much as possible. As such, we believe it is preferable that licences should pertain to only the role of central system delivery, rather then also making licensees responsible for code management. A separate code manager could be appointed, which is then subject to the strategic body, be that Ofgem or within the IRMB. This will allow the code manager autonomy from central system delivery and ensure an overall strategy is realised without commercial interest influencing how the central system delivery is operated and evolves.

In addition, any changes to the central system delivery bodies should be made around these three core values of Transparency, Timeliness and Representation. In order that the Net zero target be reached, the regulatory and financial barriers to entry for new renewable and clean technology entrants to market need to be broken down. These can be broken down by improving the transparency of decisions, the speed of decisions and enabling representation of new technologies into the decision-making process.

3. **To what extent do you agree with the detailed roles and responsibilities of the strategic function as set out above, and why?**

The REA welcome the development of a Strategic Body, separate from code managers that can consider the future direction of codes with consideration of the whole energy system and the need for decarbonisation. This will prove to be an important means for delivering technologies which will help reach the net zero transition.

Of the two options proposed, the REA agree that Option 1 is preferable, where there is clear separation between the strategic body (Ofgem) and code managers, avoiding possible conflicts of interest. We do not believe it would be appropriate for the IRMB, as part of the FSO, to have both strategic and code manger functions.

We believe Option 1 would enable the strategic body to deliver the proposed roles more effectively, namely that of oversight and monitoring, holding code managers to account and delivering material code changes. However, above these, we would stress that decarbonisation itself should be an explicit requirement of the Strategic Body, so that all decisions are considered in light of 2050 net zero carbon commitments.

However, we also suggest that even greater autonomy for the delivery of these roles by the Strategic Body could still be achieved, if it was separate from Ofgem. As the market regulator, Ofgem may find it difficult to be a truly independent strategic body that can then inform code managers. Rather the role of Ofgem should be to focus on being able to challenge the Strategic Body, Code Managers, and System Operator as the Regulator, which is a sperate role from that of providing Strategy. As such Ofgem would maintain its role as an additional check on system development, rather than as the strategic code driver itself, as well as question when the Strategic Body is, or is not, getting involved in code changes.

4. To what extent do you agree with the proposed roles and responsibilities of the code manager function as set out above, and why?

Option 1 represents an improvement on current arrangements, and we support the delivery of licensed independent code managers, appointed by a strategic body through a tender process. It will, however, be crucial for appointed code mangers to be able to suitably demonstrate their own independence from any existing commercial interest connected to market participants to ensure the conflicts of interest experienced today in code management are avoided. Again, as expressed in question 3, if the strategic body and Ofgem are kept separate, then Ofgem itself as the regulator could act as an additional check on appointments, ensuring suitable independence, in addition to the strategic body.

We broadly agree with the proposed role of code managers although recognise that there are some grey areas in determining exactly when the strategic body would get involved vs the code manager, purely managing or prioritising code changes itself. Clear demarcations will need to be further consulted on and then incorporated with the Terms of Refence of the licensed code manager. Again, decarbonisation itself should also be an expressed objective within these Terms of Reference.

In addition, further detail will need to be developed around both the nature of the stakeholder advisory forums and the requirements placed on the code managers to consult with them. This includes making clear how the code mangers would be required to demonstrate how they have ‘given due regard’, to stakeholder advisory forum feedback and importantly how they have actively acted on that advice, given that it will not be binding.

5. **To what extent do you agree with the proposed roles and responsibilities of stakeholders as set out above, including the role of the stakeholder advisory forum, and why?**

The REA support the proposals for development of Stakeholder Advisory Forums, in place of the current industry-led panels which favour those who can afford the resources and time needed to properly engage with them. This currently disadvantages smaller challenger companies who are less able to engage.

To ensure that the proposed Stakeholder Advisory Forums can be suitably representative, thought needs to be given to the make-up of such forums and who sits on them. It may be appropriate to avoid unbalanced direct industry participation by ensuring that the advisory forums are also made up of appointed representatives, such as Trade Associations, from specific sectors. Representatives could therefore include industry bodies involved in areas such as distribution, transmission operation, renewable generation, thermal generation, and consumers, amongst others. The representatives therefore talk for the sector and are charged with consulting with a wide selection of that sector, rather than any one individual stakeholder. Positions could be applied for, and then voted on, by industry as the appropriate representative to take that position.

In addition, such positions should be paid, possibly funded through systems charges or code manager levies. This will enable an even playing field and ensure those successful in being appointed to these positions are not having to fund this activity themselves, which itself would automatically exclude smaller, less resourced organisations taking up the positions. This would ensure the equal representation of views on code management and avoid financial barriers to entry for new entrants to the market.

6. **In relation to option 1, where Ofgem would be the strategic body, to what extent do you agree with our proposals on how decisions by the code manager would be overseen by the strategic body with, as a minimum, existing appeal routes retained and moved to the strategic body**

It is sensible that the strategic body should have oversight when a material dispute is raised with the code manager, as disputes need to be resolved in line with the strategic aims. This should include being compliant with the need to get to net zero carbon emissions by 2050.

Existing appeal processes should be moved to the strategic body, however these should also be reviewed in order to ensure they are suitably open to all possible stakeholders to raise an appeal. This may include reviewing requirements for the type of information published around a code modification, ensuring that both the final decision and implications are clearly communicated in a uniform style, enabling easier stakeholder engagement.

7. **In relation to option 2, where the FSO would take on the role of the IRMB, to what extent do you agree with our proposals on how relevant decisions by the code manager function would be appealable to Ofgem, with a potential prior review route via an internal body?**

In option 2, strategic oversight is handled by the FSO, and hence this proposal is similar to the position outlined in the answer to Q6. It is the REA's position that Ofgem should have oversight over code changes which impact day to day consumer interests, but strategic decisions should be made primarily by the strategic body be it the FSO or otherwise.

8. **Do you have any views on the two proposed options for appealing decisions made by Ofgem on material code changes in option 1 (with Ofgem as the strategic body) and option 2 (with the FSO as the IRMB)?**

It is most important the appeal route is fair, cost effective, administratively appropriate and transparent, so the most important factor is that the proposals meet these aims.

9. **Do you have any thoughts on other potential appeal routes?**

See above.

10. **To what extent do you agree with the proposed operating model and accountability structure for Ofgem as the strategic body, and why?**

While the REA prefer option 1 of the provided proposals, with Ofgem taking on the role of strategic body, we do raise concern that some conflicts of interest could still exist between Ofgem's role as government regulator and setting out strategy for code modifications.

Where possible Ofgem's role as regulator, being able to feed in and challenge code decisions from a regulatory perspective should be maintained, this may involve the strategic body being separate from the regulator.

11. **To what extent do you agree with the monitoring and evaluation approach for Ofgem's performance as strategic body, and why?**

The REA welcomes the inclusion of stakeholder input in the performance monitoring process. However, from the proposal there are no consequences set out if Ofgem is found not to have met these requirements, hence it does not create a proper incentive to monitor performance in an objective way. Further detail needs to be provided on exactly how Ofgem will be required to get stakeholder views, whether this would be in addition to the stakeholder advisory panels, and how this should be reported on. Again, stakeholders in this space undertake a significant amount of engagement and dedicate large amounts of time, therefore consideration should eb given to funded stakeholder places for key representative groups to allow all sides to participate.

12. **To what extent do you agree with the ways we propose that the strategic body select code managers, and why?**

The REA agrees that the FSO should be code manager for certain codes as they have the necessary expertise and remit to consider longer term understanding of the energy network. Furthermore, the shell company seems to be a sufficient way to allow for the inclusion of a range of views.

Although to ensure fair representation of views from a range of technologies, the same financial barriers to entry for new market entrants raised in previous questions should be mitigated for. Hence there is the potential for the same advisory panel which oversees performance to have responsibility in setting the code managers, as this would lead to operational efficiencies.

13. **To what extent do you agree with our proposed approach to code manager funding, and why?**

The REA agrees with the use of licence fees proposed in chapter 5.3.

14. **To what extent do you agree with our proposal that the strategic body should be accountable for code manager budgets, and why?**

This could be an appropriate way of managing the inter-relationships here and providing clarity. Ofgem could provide oversight of this process and double check the relevant amounts involved.

15. **To what extent do you agree with the proposed operating model and accountability structure for option 2, where the FSO takes on the role of the IRMB, and why?**

This is likely to be a problematic solution as under this proposal, the lines of authority between organisations are unclear which would likely lead to inefficiencies. This reinforces the view that option 1 is the preferred option for code manager reform.

16. **Overall, which of the two options do you think would be best placed to reform code governance, and why?**

It is the REA's position that option 1 is the preferred option ensuring a separate strategic body and code mangers, mitigating against most conflicts of interest. We again stress that the remit of Ofgem within option 1, as the strategic body, should explicitly include decarbonisation and ensuring delivery of a net zero carbon emission energy system by 2050.

Option 2 presents a more complex and less transparent arrangement. Without reform this is unlikely to improve code management from its existing state. The REA would like code management to improve in transparency, Timeliness and Representation which would be best reached through option 1, with consideration to the comments made in previous questions.

NB: The following three questions relate to the impact assessment on the code reform that is published along with this consultation. Member feedback is welcome from those who have read the Impact Assessment.

17. **To what extent do you agree with our estimated costs for the new code manager function set out in the impact assessment, and why?**

18. **To what extent do you agree that the case studies included in the impact assessment are indicative of the major barriers facing code changes under the current system, and why?**

19. **To what extent do you agree with the scale and type of benefits to industry estimated in the impact assessment?**

20. Are there any other wider industry developments we should consider in relation to the implementation timeline?

There are a wide range of converging factors that will put ever greater pressure on the grid networks, including the electrification of transport and heating sectors and increased blending of hydrogen on gas networks. All these combine to add impetus to the timelines involved.

21. Are there any implementation issues, risks or transition considerations we should take into account?

Clarity should be provided on the overall establishment and role of the FSO before committing to exact code government arrangements.

Priority should also now be given to working out how the codes might start to be consolidated and streamlined, in order to ensure this is done in advance of appointing new code managers.

22. We invite respondents' views on whether our proposals may have any potential impact on people who share a protected characteristic (age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation), in different ways from people who do not share them. Please provide any evidence that may be useful to assist with our analysis of policy impacts.

23. Do you have any other comments that might aid the consultation process as a whole?

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