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Sent by email to: codereform@beis.gov.uk and industrycodes@ofgem.gov.uk

Consultation on the Design and Delivery of the Energy Code Reform

Thank you for the opportunity to respond to the above consultation. This is a non-confidential response on behalf of the Centrica Group.

We welcome proposals which aim to support the industry in delivering decarbonisation goals through technology, innovation and a smarter, more flexible system. We believe that the future energy code framework should be forward-looking and clearly aligned to policy direction to meet Net Zero. Greater agility and responsiveness in rules and rule-makers will be needed, alongside high standards of accountability, compliance and performance management.

We note that many areas outlined will be subject to further consultation, and we look forward to future engagement with you. At this stage, we would specifically highlight:

- **Routes of appeal to the CMA must be maintained in the interests of consumers**
- **Direct stakeholder engagement is critical to deliver required change**
- **The strategic body role will mean a significant jump in skills and experience for Ofgem**

Routes of appeal to the CMA must be maintained in the interests of consumers

Code modification changes are often complex and technical and therefore any appeal must be decided by a body with sufficient expertise, or access to such expertise, to engage with that complexity. We believe that the CMA has shown that it has this capability and therefore should continue to be the main route of appeal for decisions taken by the strategic function.

Judicial review is essentially concerned with errors in the process and does not meet the aims of the proposed reforms. Judicial review does not provide the appropriate level of scrutiny and focuses on whether a public body has acted lawfully. This can result in decisions that are fundamentally correct being overturned due to procedural mistakes and encourages decision-makers to focus on process rather than merits of a decision. Judicial review also has no statutory timeline, unlike CMA appeal, and the view that it is a faster approach to appeal is often misplaced.

It is vital to the interests of consumers that the appeals framework for material code changes should be rational, accessible and independent. Code decisions can often result in higher energy bills for consumers. It is therefore vital that energy companies have robust appeal rights to challenge decisions (like network charge increases) which they believe are not justified and will lead to higher charges for their customers.

An effective appeals regime also provides investors with confidence in the energy market – which is vital now given the need for further investment in new technologies in order to meet the UK's current climate change goals.

Centrica considers it would be proper and in the interests of consumers that all decisions by Ofgem on Code matters (not just those where they take a different view from the code manager) should in principle be subject to appeal rights.

Direct stakeholder engagement is critical to deliver required change

Industry engagement is critical to the ability of the industry change process to provide efficient and effective outcomes for consumers. Code managers will not have the experience and operational understanding that those working in industry have, simply because their day job is managing codes rather than providing services to energy consumers. It is a key concern that without direct industry involvement in decision making, poor decisions will be made by code managers. It is essential that sufficient measures and monitoring are in place for assurance of code manager performance specifically on paying due regard to industry input.

If the reforms result in a reduction in the level of input industry can contribute to change, we are concerned that participation will drop dramatically – which appears counter to the intentions of the reform and will lead to suboptimal outcomes. We note the CMA's analysis that industry engagement leads to efficiencies which benefit consumers.

We welcome further consultation in this area, including on the development of Stakeholder Advisory Groups and the continuation of industry workgroups. There are lessons to be learnt from the formation of the Retail Energy Code key party constituent committees, which have delegated powers to decide on self-governance changes and make recommendations on changes that require Ofgem approval.

The strategic body role will mean a significant jump in skills and experience for Ofgem

The skills and experience gap between the current and future Ofgem capability is underestimated. This is especially in relation to industry codes, appeals, implementation and tendering, as well as real day to day operational and commercial industry experience, which will become more essential for both code managers and strategic body should industry's role in decision making be diluted as proposed. Strategy formation and delivery is not mentioned as one of Ofgem's current

strengths and roles in this area will be crucial to the interpretation of policy, analysis and forward planning of industry change.

We strongly support tight allocation of funds for Ofgem's new roles. However, the £2 million p.a. budget increase estimated in the impact assessment is poorly constructed on 2015 information and inadequately assesses the future strategic body role.

Our views are set out in greater detail in our response to the above, in the accompanying attachment. I hope you find these comments helpful. Please contact me if you have any questions.

Yours sincerely,

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