Response the Competition and Markets Authority's provisional findings and possible remedies report.
ENGIE Energy-UK Turkey

Background

ENGIE (previously known as GDF SUEZ) in the UK is the country's largest independent power producer by capacity with interests in 5,015 MW of plant in operation in the UK market made up of a mixed portfolio of assets – coal, gas, CHP, wind, OCGT distillate, and the UK's foremost pumped storage facility. Several of these assets are owned and operated in partnership with Mitsui & Co. The generation assets represent approximately 6% of the UK's installed capacity. The company also has a retail business supplying electricity and gas to the Industrial and Commercial sector.

In March 2014, ENGIE acquired West Coast Energy (WCE), an independent renewable energy developer based in North Wales. ENGIE operates 70MW of wind farms in the UK, 50MW of which were jointly developed with WCE since 2008 and has a wind development pipeline. WCE also has an early stage portfolio of other renewable opportunities, including solar PV and small scale hydro projects.

ENGIE welcomes the opportunity to respond to the Competition and Markets Authority's provisional findings and possible remedies report. ENGIE's views on the remedies can be found in the below.

Summary Comments

Remedy 1 – Introduction of a new standard condition to electricity generators', suppliers', interconnectors', transmission, and distribution licences to require that variable transmission losses are priced on the basis of location in order to achieve technical efficiency
(*a) What would be an appropriate method for ensuring that variable transmission losses are priced on the basis of location?* Were this remedy to be adopted, then the most appropriate method would be on the basis of average ex-ante zonal losses. This will ensure predictability in the transmission loss factors.
b) How should the variable transmission losses be allocated between generators and suppliers? Is the 45-55 split appropriate or could efficiency be improved further by changing this allocation? This spilt is well understood and we can see no compelling reason or justification to change it.
c) What will be the distributional impacts of this remedy? Should the CMA take these into account in coming to a view on the proportionality of this remedy? Distributional impacts have been well documented in the various impact assessments associated with BSC modifications raised to introduce zonal losses.

The last of these impact assessments was conducted in 2009. With an increase in distributed generation and a step change in the amount of renewable generation a new impact assessment is needed to establish the current overall benefit of introducing zonal losses as well as the geographic impacts. Only after this should the CMA conclude whether this remedy is appropriate.

(*d) Should the CMA implement this remedy directly, i.e. via an order, or should it make a recommendation to Ofgem to initiate a BSC modification instead? Are there any particular aspects of Ofgem's objectives and duties to which the CMA should have regard if implementing this remedy by a licence change?*

There is a long history of assessing the modifications within ELEXON and industry. Implementing this modification via the BSC will allow these impacts to be analysed and assessed.

Remedy 2a – DECC to undertake and consult on a clear and thorough impact assessment before awarding any CfD outside the CfD auction mechanism

(a) Would the remedy ensure that CfDs that are allocated outside the auction mechanism are awarded only when the benefits of doing so outweigh the costs?

ENGIE supports a clear and thorough impact assessment being undertaken. DECC did carry out a cost benefit analysis for CfDs awarded under the FiD enabling process. A more iterative consultation process may improve the accuracy of any future CBA.

(b) How much discretion should DECC retain in terms of the weight it places on each factor that it takes into account in coming to a decision on which projects to award CfDs outside the CfD auction mechanism? Should DECC be required to consult on and determine these factors and their relative importance in advance to enhance transparency? Should the weighting of each factor be constant across projects?

It would be better for DECC to set out criteria / minimum thresholds with projects assessed as to whether they meet the criteria. Failure would result in the project not being taken forward to award of contract. This would also avoid any subjectivity on the weighting to be applied and also as to how a project performs against the weightings.

If they are to be introduced, weighting factors should be technology specific to cater for emerging technologies where a weighting factor might be needed for supply chain development support.

Over time, the weightings may change with changes in Government policy. With projects having long lead times to get to the point of an investment decision, investor certainty may be damaged if there is a perception that weightings might change close to the point that the contract is awarded.

(c) In which, exceptional circumstances should DECC be able to allocate CfDs outside the auction process? For example, for reasons of industrial policy, where there are wider market failures, or where there may be insufficient competitors to hold an auction?

DECC should be able to allocate CfDs outside of the auction process where there is may be a lack of competition for the technology (e.g. nuclear), or limited geographic sites for the technology (e.g. tidal barrage), or to encourage greater innovation in emerging technologies which could be of strategic importance to the UK.

Remedy 2b – DECC to undertake and consult on a clear and thorough assessment before allocating technologies between pots and the CfD budget to the different pots

a) Would the remedy ensure that future decisions by DECC on the allocation of technologies and the CfD budget to the different pots are taken in a robust and transparent manner?

DECC consulted on CfD 'pots', and technologies allocated to each of them in February 2014. This was in preparation for the first CfD allocation round. This consultation was welcomed and gave stakeholders the opportunity to give their views.

It would be useful to see accompanying evidence ahead of future CfD rounds to justify why each technology has been allocated to a particular pot (e.g. comparative technology costs, views on technology maturity), and likewise justification for the level of budget provided to each 'pot' (e.g. detailed explanation of budget remaining after other commitments under the LCF have been taken into account, breakdown between individual 'pot' budgets with explanation why particular levels have been chosen). This would assist in making the process more open and transparent, and help investors.

(*b) Is the remedy likely to result in a positive change in how DECC makes decisions regarding the allocation of the CfD budget to the different pots?*

It will make a positive change more likely, as it will allow for greater consultation with stakeholders and developers, whose views on the outlook for projects could inform an assessment before technologies are allocated between 'pots' and budgets decided.

(c) How regularly should DECC review the allocation of technologies between pots? What information should DECC publish when deciding to amend the allocation of technologies between pots?

Given the pace of change across technology costs, there may be merit in reviewing the allocation of technologies on an annual basis in advance of an allocation round.

When publishing its decision, DECC should provide evidence of changing technology costs, the rationale for moving a technology between pots, and a forecast of future technology costs and level of maturity. Likewise, it should provide a rationale if it chooses not to amend the allocation of technologies between 'pots'.

d) Should DECC be limited in the maximum proportion of the CfD budget that it can allocate to each of the different pots?

No, DECC should retain flexibility in apportioning the CfD budget between pots. For example, government may wish to encourage greater deployment of established technologies, and may therefore allocate a higher level of budget to the established pot. Should supply chains and the renewable industry change in the future, DECC needs the flexibility to ensure required deployment continues and at least cost to the consumer.

Remedy 3 – Remove from domestic retail energy suppliers' licences the 'simpler choices' component of the RMR rules

ENGIE has no comments on this Remedy.

Remedy 4a – Measures to address barriers to switching by domestic customers

ENGIE has no comments on this Remedy.

Remedy 5 – Requirement that energy firms prioritise the roll-out of smart meters to domestic customers who currently have a prepayment meter

ENGIE has no comments on this Remedy.

Remedy 6 – Ofgem to provide an independent price comparison service for domestic (and microbusiness) customers

(a) Would this remedy be effective in increasing customers' trust in PCWs and thereby encourage engagement in the markets and switching?

We have reservations about whether it is appropriate for the regulator to be involved in this area of the market given that it is one which is currently well served by commercial providers. Additionally, and particularly in the non-domestic market, consumers do not necessarily choose supplier based on price alone. The range of products (metering, energy efficiency etc.) and the quality of service are more diverse in this sector and hence it may be difficult to fairly represent this on a Price Comparison Website (PCW) which is controlled by the regulator.

(b) *Should this service be online-only, or should it also operate over the telephone for those customers without access to the internet?*

ENGIE has no comments on this Remedy.

(c) *Is there a risk that such an independent service could undermine the development of other PCWs in the energy sector? How could this risk be mitigated?*

ENGIE has no comments on this Remedy.

(d) *Should the Ofgem website quote the energy suppliers' list prices only? Or should it seek to provide full details of all quotes available on the market (including on other PCWs), ie function as a meta-PCW?*

ENGIE has no comments on this Remedy.

(e) How could we ensure that an Ofgem price comparison service was robust in terms of offering all tariffs available on the market? Should there be an obligation on retail energy suppliers and/or PCWs to provide information to Ofgem on their tariffs?

It should be recognised that many suppliers do not offer tariffs, but instead offer bespoke prices based on a customer's individual needs. Participation on any Price Comparison Website (PCW) should be optional not least because it would be very difficult to implement bespoke pricing into the PCW model.

The development of a price comparison website would be a new development for the micro-business market and many customers in this segment seek a bespoke price from their supplier instead of a mass-market tariff. It is typical therefore, due to the operation of the non-domestic market currently that suppliers who only serve this sector of the market do not currently interact with PCWs. We have reservations about any potential regulator provision in this area, however, should this proposed remedy be implemented it is important to maintain a level playing field for those suppliers who are used to interacting with PCWs and those who are not. There should be a sufficient period of time for challenger suppliers to enable their systems and processes to interact with PCWs before implementing this model otherwise competition may be hindered.

Participation should be voluntary, energy suppliers should not be mandated to use the PCW.
A voluntary approach is vital as some energy suppliers may not wish to be active in particular market segments at any one time. For example, non-domestic only suppliers may legitimately not wish to build market share in a particular segment (for example micro-business) or may wish to offer only bespoke prices as opposed to a mass-market tariff.

Additionally, there is a fundamental difference between the domestic and non-domestic markets. For non-domestic contracts there is no obligation to offer terms or take on supply to any particular consumer. In the domestic market (under Standard Supplier Licence Condition 22), there is an obligation to supply on consumer request A voluntary approach to participation would support the fundamental difference between these two markets.

(f) *Should any price comparison service operated by Ofgem be transactional, i.e. be able to carry out switches for consumers, or should it provide information only?*

We are not convinced of a role for the regulator in this area but at most any role should be restricted to an information only service. This would enable customers to research the market without interfering in the commercial PCW space where innovation and customer incentives are likely to be more innovative. It is unclear how the commercial PCW market could continue if the Ofgem development were broader than simply an information service.

(g) What would be the likely costs to Ofgem of offering this type of price comparison service? Would Ofgem need additional funding and/or statutory powers in order to provide this type of service? If so, where should this funding come from? ENGIE has no comments on this Remedy.
(h) *How should customers be made aware of the existence of this service? Should information be provided by energy suppliers on bills/during telephone calls? Should PCWs be required to provide links to the Ofgem website during the search process to allow customers to cross-check prices?* ENGIE has no comments on this Remedy.
(i) *Is there any additional information that Ofgem should provide on its website relating to energy suppliers and/or tariffs to facilitate the customer search and switching process?* ENGIE has no comments on this Remedy.
Remedy 7 – Measures to reduce actual and perceived barriers to accessing and assessing information in the SME retail energy markets
Remedy 7a – Introduction of a new requirement in the licences of retail energy suppliers to provide price lists for microbusinesses on their own websites and to make this information available to PCWs
(a) Would this remedy be effective in increasing price transparency for microbusiness gas and electricity tariffs? Would it serve to make comparisons between different suppliers easier, either directly or by encouraging the development of PCW services for microbusinesses? If not, are there other measures that would encourage this development either as an alternative to this remedy or in conjunction with it? The requirement should be optional in order to maintain the right for suppliers to price on a bespoke basis (see our answer to Q6e above).
(b) Do microbusinesses have sufficient access to the information they need (for example on their meter types) in order to engage effectively in the search and switching process? ENGIE has no comments on this Remedy.
(c) How long should energy suppliers be given to provide the required information? As mentioned in our response to Q6e above, many suppliers, particularly in the non-domestic only segment, will not have systems developed which can interact with PCWs. In order to enable a level playing field any requirement to provide information to PCWs in a defined format should have a 12 month lead time. It may be possible to publish on own website sooner than this.

(d) Should energy suppliers be permitted to fulfil this requirement by providing an automated quoting service on their websites (where microbusinesses can put in their details in order to obtain quotes) rather than a list of prices?

Any such requirement should be optional in order to maintain the right for suppliers to price on a bespoke basis (see our answer to Q6e above). Nevertheless, where there is a requirement, voluntary or otherwise on suppliers, this should be as flexible as possible in order to facilitate competition and not stifle innovation in technical solutions.

Remedy 7b – Introduction of rules governing the information that TPIs are required to provide to microbusiness customers

(a) Would this remedy be effective in improving transparency over incentives and trust in TPIs in the energy sector? How could the CMA ensure that this remedy was enforced, ie that TPIs were providing the specified information?

ENGIE has no comments on this Remedy.

(b) What information should be provided by TPIs to microbusinesses in order to enable them to make informed choices?

ENGIE has no comments on this Remedy.

(c) Could the provision of certain types of information have unintended consequences (e.g. customers choosing tariffs based on commission rates rather than total price)? If so, are there any steps that could be taken to mitigate this effect?

Whilst increasing price transparency for customers is welcome there may be unintended consequences arising from the requirement for Third Party Intermediaries (TPIs) to disclose their fees. Fee disclosure may cause a behavioural change for consumers and cause them to go direct to the supplier, cutting out the TPI altogether. This would be a problem because many smaller supplier do not have in-house resources for direct sales activities and rely on TPIs for a legitimate and cost-effective route to market. It is possible that such a move may hinder competition in favour of the big 6 and inhibit challenger suppliers.

(d) Should the specified information be provided to customers in writing or orally (or both)? At what stage in the sales process should this information be provided?

ENGIE has no comments on this Remedy.

(e) Should this remedy be introduced in addition to Ofgem's proposed code of conduct? Or should only this remedy (or only Ofgem's code of conduct) be introduced?

It would seem sensible that this remedy if implemented was incorporated into Ofgem's TPI Code of Conduct. This approach would provide continuity and add clarity to retail market participants.

(f) Are there any additional measures that should be implemented alongside this remedy to enhance its effectiveness?

ENGIE has no comments on this Remedy.

Remedy 8 – Introduction of a new requirement into the licences of retail energy suppliers that prohibits the inclusion of terms that permit the auto-rollover of microbusiness customers on to new contracts with a narrow window for switching supplier and/or tariff

(a) Would this remedy be effective in allowing microbusiness customers greater opportunity to engage (by removing the narrow window in which they can choose not to roll-over automatically)?

Automatic rollover contracts are already limited (SLC 7a) to a maximum duration of 12 months by Ofgem and much has been done recently by suppliers to "wake-up" customers when their contracts are due to expire. Whilst a move to end automatic rollovers may add clarity and prevent customers from inadvertently re-contracting, many consumers appear to value this type of "hassle-free" product. Additionally the removal of rollover contracts may add to the issue of customers sitting on less economic out of contract rates.

(b) Are there any means by which energy suppliers could circumvent this remedy to continue to lock customers into energy tariffs that they have not chosen for extended periods of time?

ENGIE has no comments on this Remedy.

(c) What is the minimum or maximum notice period that customers should be required/allowed to give in order to exit a contract that they have been rolled on to?

It is common practice for many customers, or indeed Third Party Intermediaries (TPIs) acting on behalf of customers, to give notice of termination to their supplier at the time of agreeing a new fixed term contract. This practice avoids unnecessary complications for both the supplier and customer at the renewal date and hence there should not be a maximum notice period. For micro-business customers a one month minimum notice period is sufficient.

(*d) Should energy suppliers be required to inform customers that they are nearing the end of their contract and prompt them to switch?*

This reminder process has already been introduced by Ofgem into the supplier licence for micro-business customers. Suppliers currently are required to contact customers ahead of the renewal date with an explanation of the options available to them, such as renewal, changing supplier or otherwise the "do nothing" position. Additionally as part of these requirements suppliers also make clear on customers' bills both the contract end date and the date by which they should renew/terminate the contract.

Remedy 9 – Measures to provide either domestic and/or microbusiness customers with different or additional information to reduce actual or perceived barriers to accessing and assessing information

(a) Does the current format and content of energy bills facilitate engagement by customers? Is there additional information that should be included on bills? Should the quantity of information on bills be reduced to enhance clarity?

The current content of customer bills is already quite extensive and it is unlikely that any additional information on bills would be useful to consumers. If anything, changes in this area are likely to cause additional complexity and costs to consumers from the related supplier systems changes.

(*b) When customers seek to switch tariffs, are they given enough/too much information on the terms and conditions of their new contract?*

Supplier terms and conditions are required to set out to consumers, in a plain and intelligible way; any special provisions for micro-business customers are clearly set out in a separate schedule.

(*c) Should customers be prompted to read their meters (quarterly or annually), either by information on their bill or by a phone call from their energy supplier? Would this increase engagement by improving the accuracy of billing?*

The rollout of either advanced or smart metering should largely alleviate any problems in this area. Additionally, it is common practice for suppliers to allow customer to submit own readings.

(*d) Once customers reach the end of a contract period, should subsequent bills highlight that they have now been moved onto the standard variable tariff and/or other default tariff and encourage them to check whether they are on the most appropriate tariff for them?*

Please see answer to Q8d above.

Remedy 10 – Measures to prompt customers on default tariffs to engage in the market
(a) What information should be included in the prompts to customers on default tariffs in order to maximise the chances that they are acted upon? *(i) Should customers who have failed to engage be informed that they are 'no longer under contract for energy', that they have been 'rolled onto a safeguard tariff', or an alternative message, for example, emphasising how many customers in their area have switched in the last year?* Please see answer to Q8d above.
(b) How should prompts be communicated to customers? For example, there is some evidence from the financial sector that text prompts are particularly effective at raising awareness in terms of overdrafts etc. Please see answer to Q8d above.
(c) What should be the timing and frequency of prompts in order to balance effectiveness in terms of encouraging engagement with the cost and potential irritation that might arise from repeated prompts? Please see answer to Q8d above.
(d) Who should provide the prompts: customers' energy suppliers, Ofgem or another party? It is clearly the energy supplier's role to provide such prompts at a suitable time.
(e) Are there particular groups of customers who should receive prompts at specific points? For example, should house-buyers be prompted to engage with the market on completion of their purchase? ENGIE has no comments on this Remedy.
(f) Is there benefit in others in the markets, such as rival energy providers or TPIs, being made aware of which customers remain on default tariffs (or have been rolled on to the safeguard tariff)? In this respect, data protection issues would need to be carefully considered. The ability of other market participants to identify inactive customers, however, has the benefit of potentially encouraging the customer to switch tariffs once out of contract. Yes, this may well stimulate more engagement in the market and present an opportunity for challenger suppliers to grow. Should this be implemented it should be on a voluntary basis with the customers consent and subject to data protection requirements.

Remedy 11 – A transitional 'safeguard regulated tariff' for disengaged domestic and microbusiness customers
(*a) Should the safeguard tariffs be set on a cost-plus basis, or should they be related to other retail prices?* We strongly oppose interventions in the market such as the introduction of a default tariff set by the regulator or a government body. We consider that there is already sufficient oversight by Ofgem under SLC 7.3.7.4 in relation to deemed rates which require: i) Suppliers to publish deemed rates on their website and; ii) That deemed rates are kept under review and; iii) That deemed rates are not unduly onerous to consumers.
(*b) If the safeguard tariffs were set on a cost-plus basis, which approach(es) we should consider to determining the wholesale energy cost element of the tariffs? What are the relative merits of the proposed approach(es) in the context of the purpose of the safeguard price cap?* Please see our answer to Q11a above.
(*c) Could the imposition of a transitional safeguard price cap result in energy suppliers reducing the quality of service offered to customers on this tariff? Is this risk reduced by customers' ability to choose alternative, unregulated tariffs?* Please see our answer to Q11a above.
(d) Should all domestic and microbusiness customers on default tariffs be rolled onto the safeguard tariff, or should this remedy only apply to a subset of these customers? If this remedy should not apply to all customers, why? And how should energy suppliers identify those customers who should be covered? Please see our answer to Q11a above.
(*e) How should the headroom be calculated to provide the right level of customer protection while not unnecessarily reducing healthy competition?* Please see our answer to Q11a above.
(f) What regulatory information would be required to set the safeguard tariffs? Please see our answer to Q11a above.

(*g) How long should the safeguard price caps be kept in place? Is it appropriate to include a specific sunset provision, or should there be a commitment to review the need for and level of the safeguard price caps after a certain period of time?* Please see our answer to Q11a above.
(*h) How frequently – if at all – would the level of the cap need to be reassessed? If the cap is set on the basis of directly passing through wholesale and network costs, then it may not be necessary to revisit the safeguard price level.* Please see our answer to Q11a above.
(j) Which energy suppliers should be subject to the safeguard cap, and why? Should it be restricted to the Six Large Energy Firms, or should all retail energy suppliers be covered? Please see our answer to Q11a above.
(*j) How should the transition from the current arrangements be managed? We note that an immediate requirement to change the prices for all customers on standard variable tariffs, rollover, evergreen, deemed and out-of-contract tariffs might put pressures on certain suppliers more than others. Should there be, therefore, a period over which the safeguard price cap is phased in? If so, how long should this period be and how should the transition work?* Please see our answer to Q11a above.
(k) Would energy suppliers have the ability to circumvent the remedy, for example, by encouraging disengaged customers to switch on to less favourable, unregulated tariffs, and how such risks could be mitigated? Please see our answer to Q11a above.
(*l) Should the CMA set the level of the safeguard price caps itself, or should make a recommendation to Ofgem to do so?* Please see our answer to Q11a above.
(*m) Are there any potential unintended consequences of setting safeguard price caps, for example, in terms of their potential impact on the level of other, unregulated tariffs?* Please see our answer to Q11a above.

Remedy 12a – Requirement to implement Project Nexus in a timely manner

(b) Should the CMA implement this remedy directly (e.g. via an order and/or a licence modification) or should it make a recommendation to Ofgem to implement the remedy?

A direct application of this remedy by the CMA would be desirable. An implementation directed by the CMA would add certainty for stakeholders and would strengthen the industry focus in this area, both for the central delivery agency and for gas shippers. We note UNC code modification 0548 is raised to give effect to the revised implementation timeline but we consider there remains a risk of delay to the programme at the discretion of Ofgem.

We are pleased that the overall programme management is now more robust given PWC's increased role in this area and this should address the difficulties that have arisen previously.

Remedy 12b – Introduction of a new licence condition on gas shippers to make monthly submissions of Annual Quantity updates mandatory

(a) *Is it proportionate to require the mandatory monthly updating of AQs? Would it be more proportionate to require less frequent updating of AQs? Would less frequent updating still be effective* in terms of removing the scope for gaming of the system?

ENGIE has no comments on this Remedy.

Remedy 13—Requirement that domestic and SME electricity suppliers and relevant network firms agree a binding plan for the introduction of a cost-effective option to use half-hourly consumption data in the settlement of domestic electricity meters

ENGIE has no comments on this Remedy.

Remedy 14 – Remedy to improve the current regulatory framework for financial reporting

(a) Should the scope of the individual areas reported on align with the scope of the markets as set out for generation and retail supply in our provisional findings? For example, should a requirement to report wholesale energy costs on the basis of standard products traded on the open wholesale markets be imposed?

In order to make direct comparisons between obligated firms it would be helpful if reporting requirements were standardised. We do however accept that energy firms are structured in different ways and that a regulatory reporting requirement should not be a driver of organisational structures.

(b) What regulatory reporting principles would be particularly relevant to the preparation of regulatory financial information in this sector?

ENGIE has no comments on this Remedy.

(c) Would summary profit and loss account and balance sheet information for each area be sufficient to enable the effective regulation of the sector and the development of appropriate policies? Or should the large domestic and SME energy suppliers be required to collect and submit additional, more granular financial information?

ENGIE has no comments on this Remedy.

(d) Should this remedy apply to the firms that are currently under an obligation to provide Ofgem with Consolidated Segmental Statements? Or should it apply to a larger or narrower set of firms?

The remedy should continue to apply to the current 6 vertically integrated companies. Widening the scope would increase the regulatory burden for smaller companies and in many cases duplicate the reporting of financial information.

(e) What would be the costs of imposing such a remedy? We note that some firms' reporting systems are not currently capable of providing information on such a 'market-orientated' basis and that our remedy could require significant additional system requirements.

ENGIE has no comments on this Remedy.

(f) Should the CMA implement this remedy by way of licence modifications or by way of a recommendation to Ofgem?

This Remedy should be implemented via recommendation to Ofgem who can then draft the necessary licence changes.

(g) To what extent should this financial information on performance be published?

If the rational for improving regulatory reporting is to increase transparency then it should be published in the same vein as the consolidated segmental statements.

Remedy 15 – More effective assessment of trade-offs between policy objectives and communication of impact of policies on prices and bills

ENGIE has no comments on this Remedy.

Remedy 16 — Revision of Ofgem's statutory objectives and duties in order to increase its ability to promote effective competition

ENGIE agrees that Ofgem's wide range of objectives can lead to decisions being made that are not in the best interests of consumers. Ofgem's objectives should align with wider Government policy (which is moving away from a focus on the environment towards lower costs to consumers).

Remedy 17 – Introduction of a formal mechanism through which disagreements between DECC and Ofgem over policy decision-making can be addressed transparently

This should be addressed by clearly setting out the roles and responsibilities of DECC and Ofgem. Revision of Ofgem's statutory duties so that it is clear what Ofgem must primarily focus on would help to define Ofgem's decision making remit.

Remedy 18a – Recommendation to DECC to make code administration and/or implementation of code changes a licensable activity

(a) Is this recommendation likely to result in a positive change in the initiation, development and/or implementation of code changes that pursue consumers' interests?

This may slow down the time taken to make changes as each change would require a licence consultation.

(b) Would this remedy be more effective if certain functions currently carried out by code panels and/or network owners (eg setting up working groups) were transferred to code administrators?

This seems to offer little benefit, it would result in a different organisation setting up the working groups but the same people being involved in the working groups.

(c) Would this remedy be more effective if Ofgem or DECC were to impose stricter requirements relating to the selection (eg competitive tender), financing and/or independence of code administrators (and/or delivery bodies)?

It is not clear what benefit this would have. Code administrators already act independently.

Remedy 18b – Granting Ofgem more powers to project-manage and/or control timetable of the process of developing and/or implementing code changes

(a) Is this recommendation likely to result in a positive change in the development and/or implementation of code changes that pursue consumers' interests?

ENGIE has concerns that having Ofgem control the timetable may not allow for sufficient time for assessment of code changes leading to sub-optimal and in some cases unworkable solutions if the timetable must be adhered to above all else.

Where changes take time to progress, the delays can be due to the time needed to define the problem and also delays in approving change proposals. In the case of the SCR process, both of these area are within Ofgem's powers

(b) Would this undermine the principle (and effectiveness) of industry-led code changes?

Yes, it would undermine this principle. ENGIE views the industry led process as having worked well.

(c) Should this power be limited to the completion of certain elements of the development or implementation phase (e.g. consultation, setting up working groups)?

ENGIE views these aspects as currently well managed. In general working groups are pre-established such that industry experts can be called upon for particular subject areas (e.g. governance, settlements). Consultation timetables are based on meeting system releases and are therefore based on a logical determination.

(d) Should Ofgem's ability to use this power be limited to defined circumstances (eg modification proposals which are relevant to Ofgem's principal objectives) or should it be left to Ofgem's discretion?

The SCR process already allows for Ofgem to have control over developing some code changes. ENGIE does not see the need to grant further powers in this area.

Remedy 18c – Appointment of an independent code adjudicator to determine which code changes should be adopted in the case of dispute

(a) Are there benefits in terms of independence, impartiality and/or industry know-how of an independent code adjudicator that are not available with Ofgem, given its other responsibilities, when undertaking the adjudicator role?

Ofgem's current remit is to make decisions on code changes. ENGIE does not see the need for a code adjudicator to carry out this role.

Where there is a dispute, there needs to be a route for appeal. Appeals could be undertaken by a code adjudicator particularly if this proved to be less costly than the current appeals process.

(b) *Would there be unintended consequences, arising for instance from an increased lack of coordination between code modification governance, licence modifications and legislation?*

There is a strong case for all these changes to be considered 'in the round' by one body. Having different bodies determining on overlapping changes should be avoided.

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