Code Governance Review (Phase 3) final proposals

Department for Business, Energy and Industrial Strategy - Ofgem

RPC rating: validated

Description of proposal

The Code Governance Review (CGR) final proposals introduced a number of reforms to the governance of industry codes. Their purpose was to make sure that they worked in the best interests of consumers. They included measures in the following areas:

Self-governance process – requiring Code Administaror Bodies (CABs) to work together to produce guidance that can be applied across codes to help industry to assess whether a proposal should follow a self governance route.

Code administration – includes a requirement for CABs to develop a forward work plan to enable CABs to manage change at a strategic level (e.g. significant changes which impact on the gas and electricity industries such as smart metering or faster switching).

Code metrics – setting out that the Code Administration Code of Practice (CACoP) quantitative metrics needed to improve and to have greater visibility, in particular that the code administrators will report on a series of qualitative and quantitative metrics.

Impacts of proposal

The proposal will affect six industry CABs, 11 industry code governance panels and industry participants in the gas and electricity markets (62 electricity suppliers, 148 electricity generators and 248 gas shippers).

Using wage data from the ONS (with adjustments for non-wage labour costs) and data on average reading speeds, the assessment monetises familiarisation costs to these affected bodies. Overall, this amounts to around £11,000, mainly in respect of 'self-governance process'.

The regulator has monetised on-going cost of under £1,000 to CABs of providing data for the code metrics. The assessment explains that it does not hold data to estimate on-going costs associated with the other measures and considers it disproportionate to carry out a survey to obtain it.

Quality of submission

Given the very low expected cost of the proposal, the regulator has provided just sufficient information for the RPC to be able to validate an EANDCB of £0.0 million. The assessment would have benefited from providing at least a more detailed qualitative assessment of the likely scale of the non-monetised costs, such as the development of the forward work plan under 'code administration'. The RPC does not accept that the regulator has demonstrated that the cost of producing the guidance document under 'self-governance process' will be "*offset by the long-run benefits it generates in the form of facilitating the self-governance process onwards*". However, on balance, the RPC accepts that these costs are unlikely to affect the validated EANDCB in this case.

The assessment includes a reference to "*network companies are monopolies and therefore excluded from the BIT scope under the administrative exclusion F Pro-Competition*". This statement has not been substantiated, although it does not appear that the regulator has actually excluded any such costs from the assessment. Any future submissions that claim exclusion under pro-competition grounds will need to demonstrate either that the BRFM tests have been applied or that the measure implements a CMA order addressing an adverse effect on competition.

Departmental assessment

Classification	Qualifying regulatory provision
Equivalent annual net direct cost to business (EANDCB)	£0.0million
Business net present value	£0.0 million

RPC assessment

Classification	Qualifying regulatory provisions
EANDCB – RPC validated[1]	£0.0 million
Business Impact Target (BIT) Score[1]	£0.0 million

[1] For reporting purposes, the RPC validates EANDCB and BIT score figures to the nearest £100,000.

Martin Traynor OBE, FIH, committee member

To avoid any potential/perceived conflict of interest, committee chairman Michael Gibbons did not participate in the scrutiny of this case.