

By email.



Making a positive difference
for energy consumers

Michael Gibbons CBE,
BSC Panel Chair

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Date: 18 February 2020

Dear Michael,

Thank you for your letter of 14 February 2020. In that letter you confirmed that Elexon will be ready to submit an initial red-lined draft of the changes to BSC legal text, required as a consequence of the Switching and Retail Code Consolidation (RCC) Significant Code Reviews (SCRs). Elexon's assistance in this, and indeed throughout the programme, has been greatly appreciated. I am also grateful that the panel has taken the time to understand and discuss the plans for further work on the SCRs.

As your letter contained a number of caveats and points for further development I thought it would be appropriate to provide a quick confirmation of our understanding of those points. I am satisfied that our respective teams have been discussing them and will continue to discuss them further in the coming weeks.

The most immediate issue is the drafting of alternative text to cater for a scenario where CSS implementation and giving effect to the Switching modification occurs ahead of the RCC SCR modifications taking effect. As noted in your letter, we consider this to be a prudent contingency measure in order to mitigate the risk of a slippage to the RCC having an impact upon and potentially delaying the switching programme, however unlikely. We note and agree your point that all interested parties would require a reasonable lead time to change their own implementation plans if the timing of the RCC and consequently the order of the two SCRs were to change.

I appreciate that there are some areas of policy which are not yet settled and therefore cannot yet be reflected in the red-lined text. It would be helpful if Elexon, in working with my team, could clearly identify outstanding queries or assumptions that have been written into the text. We will focus on these during the review process and if appropriate address them within the next draft of the text. This should include the approach to the performance assurance of Meter Agents.

As noted in your letter, once the initial drafts of legal text for each industry code are available, they will need to be 'dovetailed' in order to ensure end-to-end consistency between the BSC and other codes, and prevent any gaps emerging. As the SCRs will impact upon at least eight separate industry codes, our plan is to undertake this activity ourselves, with the support of Gowlings and the code bodies as appropriate. My team will shortly be in touch with Elexon to set up an introductory meeting between its lawyers (and other individuals responsible for the drafting of the text) and Gowlings, in order to familiarise themselves with the work each has done to date and establish robust ways of working for the remainder of the SCR period. You will appreciate that this is the first time we have undertaken such a wide-ranging SCR, which is in part what led to our decision to retain ownership of the modifications ourselves rather than direct a licensee to raise them. The ongoing collaboration of organisations such as Elexon with the in depth knowledge of the affected codes is therefore critical.

The need for a collaborative approach also extends to the production of and consultation upon a draft modification report. As noted in my letter of 28 January 2020, we do not consider that it would be practicable to progress the necessary modifications through each of the affected codes, using the normal modification procedures and with timescales that are subject to each Panel's discretion. We therefore agree that further guidance will be required setting out our expectations of the applicable governance and management of the process. We will further develop our thinking on this in the coming weeks, before communicating to the relevant panels our proposed approach. I hope we can again count on Elexon's support to develop a bespoke process that will deliver the unique requirements of the two SCRs, whilst at the same time following normal modification rules and procedures to the closest possible extent. For instance, we may require an extraordinary meeting of the BSC Panel to consider and provide its recommendation upon the modification(s) if the overarching SCR timeline requires it, but its consideration of the modification(s) should otherwise be against the applicable objectives of the BSC as normal.

Finally, you raise the prospect of some improvements to the switching related provisions of the BSC which are not strictly within scope of the SCRs but may nonetheless help further the same objectives. My team has been in touch with Chris Wood to discuss these proposals and I understand will be meeting with him shortly to determine the appropriate means of progressing them. I expect that we would adopt a similar approach to these proposals as we have with other modification proposals to date, effectively applying 'triage' criteria to determine whether they should proceed be exempt from the SCRs or subsumed within them. Timing is part of this consideration, as whilst we must prioritise the SCRs and the Switching programme in particular, we do not want to unnecessarily stymie wider changes that would have otherwise been given effect to the benefit of consumers.

Yours sincerely,



Rachel Clark,
Director, Retail Systems Transformation

CC: Chris Wood, Elexon