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Mark Feather
Director Industry Codes and Licensing
Ofgem
9 Millbank
London
SW1P 3GE
May 2009

Dear Mark,

Review of Industry Code Governance – Code Administrators’ Working Group

This response is being submitted on behalf of the Uniform Network Code Modification Panel following a debate of the issues contained in your related consultation papers. The Panel has not set-out to address each individual recommendation in the CAWG Report, believing that this is best left to individual parties, but instead has concentrated on the issues raised in your open letter.

Ownership

Under the UNC Modification Rules, ownership of a Modification Proposal rests with the Proposer. The Panel believes this has proven to be effective in ensuring that accountability and responsibility is clearly defined, and would support its retention.

Alternatives

While the Panel recognises that the present UNC rules permit Alternative Proposals to be raised late in the modification process, Members would wish to emphasise that this does not necessarily mean that alternatives have not been subject to industry wide discussion and development. In practice, differing approaches are often discussed and documented in the development process, and it is rare for an unexpected Alternative Proposal to be raised. The Panel would also like to emphasise that the UNC approach is effective in ensuring that Modification Proposals can progress through the process without undue delay – progress could be delayed as a result of alternatives being raised if there was a requirement for the Alternative to be subject to the full modification process.

Legal text

Panel Members recognise the importance of the legal text which is the basis of actual contractual changes. As a general rule, however, the Panel believes that

proposer should seek to ensure that Modification Proposals are sufficiently clear such that the production of legal text is non-controversial. The UNC provides flexibility at present with both the Panel and Ofgem able to request that formal legal text is produced. This flexibility has been used in practice to try and ensure that text is available for those cases where interpretation may be difficult, while avoiding extending the process by requiring text to be produced in cases where the text would not add to the consultation process.

Panel Members also recognise that, being the embodiment of the contractual change, it is important for all parties to be confident that the text accurately and faithfully reproduces what has been proposed. In this context, there could be merit in the Joint Office being given more responsibility for quality assuring the text which is provided by the Transporters.

Code of Practice

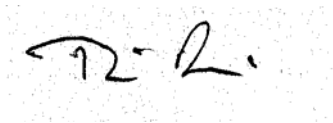
The Panel would welcome a Code of practice which sets out expectations for all Code Administrators and, potentially, Panels.

Critical Friend

The Panel supports the Joint Office continuing to operate as a critical friend.

We trust you find these comments helpful and look forward to the Review proceeding further.

Yours sincerely



Tim Davis
Chair, UNC Modification Panel