

Decision

Decision on Switching Incentive Regime Direction and guidance

Publication date:	29 March 2023
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This document sets out our response to our February 2023 consultation on the Direction and guidance required for The Data Communications Company (**DCC**) Switching Incentive Regime (**SIR**).

The document sets out the following:

1. We will revoke the 03 May 2019 Direction under the Smart Meter Communication Licence, with an effective time / date of 2359 on 31 March 2023
2. We are publishing a new replacement Direction to give effect to the SIR, with an effective time / date of 0000 on 01 April 2023
3. We are publishing our final version of guidance designed to act as a comprehensive reference setting out how the SIR operates in practice, in accordance with the Licence and Direction

We have also published the following documents alongside this decision:

1. SIR guidance document
2. Notice of Direction under the Smart Meter Communication Licence

3. Direction under the Smart Meter Communication Licence, to take effect at 0000 on 01 April 2023
4. Letter revoking the 03 May 2019 Direction, which will cease to have effect at 2359 on 31 March 2023

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1. Decision

- 1.1. The Switching Incentive Regime (**SIR**) is a performance incentive regime for The Data Communications Company (**DCC**) in its roles in the enduring Switching arrangements, established under the terms of its existing Price Control.
- 1.2. On 16 February 2023 we consulted on the Direction and accompanying guidance for the DCC SIR.¹ The Direction is required to set the value of the formula terms “CRSPA_t” and “CRSM_t” as set out in the Smart Meter Communication Licence and as relevant to the SIR. The guidance is designed to act as a comprehensive reference setting out how the SIR operates in practice, in accordance with the Licence and Direction.
- 1.3. We published draft versions of both the Direction and the guidance alongside the consultation.
- 1.4. We asked four questions in the consultation as follows:

Question 1: We consider that the SIR should comprise two measures - 80% operational performance measured through SIRSDM1, and 20% customer engagement measured through SIRVMM1. Do you agree with the proposed weighting of the two measures?

Question 2: We propose to derive a score for SIRSDM1 through the REC Service Provider Performance Charge framework, and for SIRVMM1 through a customer engagement survey. Do you agree with our proposed mechanisms for determining a score for each measure?

Question 3: Do you agree that the draft Direction appropriately gives effect to the policy design of the SIR as described in question 1?

¹ Link [here](#) to the February 2023 consultation on the Ofgem website

Question 4: Do you agree that the draft guidance provides a comprehensive reference to the operation of the SIR, setting out the regime according to the Licence and Direction?

- 1.5. We received three responses to the consultation. Our responses to the points raised under each of the questions in those three responses is set out in chapter 2 of this decision.
- 1.6. Following careful consideration of the responses, we are now publishing our decision accompanied by the final Direction and guidance. No changes have been made to the Direction relative to the version as consulted on. One change has been made to the guidance in response to a point raised, as described in chapter 2.
- 1.7. Finally, alongside the consultation we had also published a Notice of revocation of the 03 May 2019 Direction.² As noted in our 26 January 2023 decision, we intended to revoke this May 2019 Direction, which determined the value of CRSPA_t in the Licence to cover the DCC's roles within both 1) the Transitional Phase and 2) the Design, Build and Test Phase of the Switching Programme, and replace it with the new Direction from 01 April 2023 onwards.³ We are now proceeding with the revocation of the May 2019 Direction following the period of consultation ending on Friday 17 March 2023, and have issued a formal decision letter to that effect alongside this decision. The revocation of the May 03 2019 Direction will take effect at 2359 on 31 March 2023.
- 1.8. As per the new Direction, the SIR will commence on 01 April 2023 to coincide with the start of the Regulatory Year (**RY**) 23/24.

² Link [here](#) to the May 2019 Direction on margin and incentives for DCC's role in the DBT phase of the Switching Programme on the Ofgem website

³ Link [here](#) to the January 2023 decision on the Ofgem website

2. Responses to the consultation

Question 1: We consider that the SIR should comprise two measures - 80% operational performance measured through SIRSDM1, and 20% customer engagement measured through SIRVMM1. Do you agree with the proposed weighting of the two measures?

2.1 Two respondents agreed with the proposed weighting of the two measures that constitute the SIR. DCC did not comment on the proposed weighting.

Ofgem response:

2.2 We will go ahead and establish the SIR with the proposed weighting of the two constituent measures as consulted on - 80% for operational performance through the SIRSDM1 measure, and 20% for customer engagement through the SIRVMM1 measure.

Question 2: We propose to derive a score for SIRSDM1 through the REC Service Provider Performance Charge framework, and for SIRVMM1 through a customer engagement survey. Do you agree with our proposed mechanisms for determining a score for each measure?

2.3 Two respondents agreed with the proposed mechanisms for deriving scores for the two SIR measures.

2.4 One of the respondents cautioned that the customer engagement survey must be well designed to ensure it is fit for purpose in eliciting useful and accurate information regarding DCC's customer engagement performance.

2.5 DCC expressed their concern with the scheme proceeding as proposed whilst Retail Energy Code (**REC**) change proposal (**CP**) R0092 was still in progress. This CP raised by DCC on 28 January 2023 proposes changes to the Service Level Agreements (**SLAs**) in the REC. DCC believe its margin should only be put at risk through the SIRSDM1 measure once a new mutually agreed set of SLAs for use in the scheme have been agreed.

2.6 DCC also noted its concern regarding potential double jeopardy across both measures, citing in particular service availability which may impact both the SIRSDM1 and SIRVMM1 measures.

Ofgem response:

2.7 We agree that the customer engagement survey must be appropriately designed to ensure it functions correctly in terms of deriving a fair and reasonable score for DCC's customer engagement performance. We will work with RECCo to ensure this is the case.

2.8 We note the existence of REC CP-R0092, which proposes changes to the SLAs in the REC. As we noted in our January 2023 decision, we do consider that the SIR can proceed with the SLAs as drafted, and does not need to be delayed until the SLAs are resolved.⁴ DCC was involved in the original conception of the SLAs to support the procurement process and then in their incorporation into the REC as part of the REC v3 release, and has been required to comply with them since July 2022 when the new Switching arrangements went live. We also note that discussions on using the SLAs in a financial incentivisation scheme have been ongoing for some time. We consider that CP-R0092 should follow the due REC change management process to ensure industry can arrive at an appropriate solution.

2.9 We agree with the importance of avoiding double jeopardy and the situation of DCC being potentially penalised twice for the same infringement. We will work with RECCo to ensure the customer engagement survey protects against this.

Question 3: Do you agree that the draft Direction appropriately gives effect to the policy design of the SIR as described in question 1?

2.10 All three respondents agreed that the draft Direction appropriately gives effect to the policy design of the SIR as described.

⁴ Link [here](#) to the January 2023 decision on the Ofgem website

Ofgem response:

- 2.11 We will proceed with issuing the Direction as consulted on alongside this decision, with no changes relative to the version consulted on. The Direction will take effect at 00:00 on 01 April 2023.

Question 4: Do you agree that the draft guidance provides a comprehensive reference to the operation of the SIR, setting out the regime according to the Licence and Direction?

- 2.12 Two respondents agreed that the guidance was fit for purpose in fulfilling its intent and did not have any comments regarding required amendments.
- 2.13 DCC raised a number of points regarding various aspects of the guidance. We address each of these points below in turn.
- 2.14 DCC consider that the details of the REC Service Provider Performance Charge framework should be explicitly included within the SIR guidance itself, on the basis that this element of the SIR (ie the operational performance measure) should be subject to the same requirement for review as the other measures.

Ofgem response:

Whilst noting the point, we do not consider that this is required. The mechanism for determining a score for SIRSDM1 from the output of the REC framework is explicitly set out within the guidance. We consider that the actual details should sit only within the REC to avoid the requirement to amend the SIR guidance each time the code framework is amended. We also note that the REC framework is subject to the usual REC change management process; as any REC party including DCC is entitled to raise a proposed change, this ensures the framework is effectively under constant review.

- 2.15 DCC consider that SIRVMM1 should be described as a “customer service measure” in the guidance as opposed to the term “customer engagement measure”, to more appropriately reflect the activity.

Ofgem response:

We appreciate the point made, however we consider that both terms would be appropriate for use and we therefore do not see a need to change the guidance. We will therefore retain the description of SIRVMM1 as a customer engagement measure.

2.16 Some suggestions were made by DCC regarding the design of the SIRVMM1 Assessment. It suggested that:

a) RECCo should be required to demonstrate that their assessment questions to DCC's customers are as 'SMART' (Specific, Measurable, Achievable, Relevant, and Time-Bound) as possible.

b) the definition of "customer" should be clearly defined to make clear which interactions with parties are relevant to each question.

c) that it should be made clear in the questions who the customers are in each case and therefore which parties are required to answer each question, to ensure only the appropriate parties can impact on the scoring.

Ofgem response:

We refer to paragraph 4.5 of the draft SIR guidance which states the need for RECCo to provide appropriate evidence to support their scores, and to determine themselves which parties are relevant to answer each question, as follows:

"The assessment criteria are set out below. We require both parties to provide us with a score for DCC against a number of attributes, with appropriate evidence provided to support that score.

In the case of the RECCo submission, we expect RECCo to decide itself how best to collect this information for each question from the relevant parties impacted by DCC's customer engagement performance in each case. Some questions may only be relevant to RECCo, for example the question on transparency of costs, whereas others may be relevant to all REC Parties. We expect RECCo to provide a score and supporting evidence for each attribute that fairly and accurately reflects what may be a range of views."

Paragraph 4.14 also states:

"RECCo's submission must explain how they sought customer views to inform the submission, and how they were incorporated into the scoring."

We consider that these principles-based requirements on RECCo in collecting the information to support the scoring are clear, and no further prescription is required. We would expect RECCo to correctly identify which customers should be invited to answer each question based on how they interact with DCC as set out in the REC. We reserve the right to reject any scores or evidence that we do not consider are appropriate.

- 2.17 DCC propose that RECCo be required to demonstrate early engagement with DCC to resolve any areas of concern, and that a timeframe for doing so should be set out in the guidance.

Ofgem response:

We note paragraph 4.15 of the SIR guidance, which states:

"RECCO and DCC should engage with each other when drafting their submissions to ensure the two submissions are broadly comparable."

We consider that this principle appropriately ensures that concerns held by either party should be addressed bilaterally between both parties as part of the process. We would not expect to receive materially contrasting submissions without appropriate reason.

- 2.18 DCC propose a 'trial run' in summer 2023 to ensure the process works as intended before the first official process is run in summer 2024 (following the 23/24 regulatory year), similar to the trial process undertaken with the Smart Metering Operational Performance Regime (**OPR**) which was noted as being a valuable exercise.

Ofgem response:

We agree with the point made. As DCC note in its response, a trial run will ensure both parties are able to deliver the requirements of the framework, and will provide the opportunity to highlight and resolve areas of concern, ahead of the first official running of the process in summer 2024. We consider that this will be

mutually beneficial to both parties. We encourage DCC and RECCo to work together on undertaking some form of trial process in summer 2023, and we will support the process as required.

- 2.19 DCC noted that, as it is already required within the REC to only amend its CRS charges once agreed if an amendment is approved under the REC Change Management Schedule (as per the REC Main Body, paragraph 9.33), spelling this point out in paragraph 4.7 of the SIR guidance is unnecessary:

Ofgem response:

We agree with the point made. We will remove that sentence from page 17 of the guidance, so it now reads as follows:

- *For costs incurred, DCC should provide such evidence as necessary to support that such costs were economic and efficient. ~~DCC should seek prior consultation with RECCo before committing to any external costs, or incurring any internal costs which would require an increase in its agreed budget.~~*

- 2.20 DCC noted that, alongside the draft SIR, it would have been useful to have been provided with the draft changes to the reporting guidelines (ie the RIGs) that will be required to ensure DCC report the correct information.

Ofgem response:

We appreciate the point made. We intend to begin the process of consulting with DCC on required changes to the RIGs to support the SIR over the coming weeks.

- 2.21 Finally, DCC noted that it did not feel it appropriate that it should only have the opportunity to appeal performance charges it felt were outside of its control as part of its Price Control information submission following year end. DCC consider that this weakens the incentives on it to improve performance, and it would appreciate a more timely challenge mechanism.

Ofgem response:

As per the REC provisions, DCC is able to appeal to the REC Performance Assurance Board (**PAB**) following the end of each quarter regarding any

performance charges it wishes to contest. We consider that, as it is a REC-led framework, it would not be appropriate or proportionate for the Authority to have any involvement in the scheme within the regulatory year, and that the appeals mechanism available to DCC after year end as part of the Price Control submission process to the Authority provides an appropriate backstop.

3. Next steps

- 3.1 In line with the Direction and SIR guidance published alongside this decision, the DCC SIR will come into effect on 01 April 2023.