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Citizens Advice Response to Ofgem DCC review: Phase 1 consultation

Dear Ofgem,

We welcome the opportunity to reply to this consultation regarding the future regulatory regime for the Data Communications Company (DCC). We have approached this consultation from the perspective of how the DCC could best deliver value-for-money and a reliable service for current and future consumers. We would welcome the opportunity to discuss our response with you further.

Option B should form the basis of the regulatory design framework for the DCC. It has the potential to drive decisions that are in the interests of consumers for the following reasons:

- Direct influence of consumer interest groups on the stakeholder-controlled board would better align the strategic direction of DCC with consumer needs.
- Greater transparency over budget-setting and contract procurement will enable better accountability over whether services have been delivered at efficient costs.
- In our view the price control framework set out under Option A will still face challenges given the nature of the DCC as an organisation. As an asset light business, there will be limits to what can be done with financial incentives/penalties. We note that similar challenges have been encountered with the ESO.¹

In order to ensure Option B does deliver for consumers, there are key elements required in the design:

¹ Ofgem (2019), [*RIIO-2 Sector Specific Methodology Decision and further consultation - Electricity System Operator*](#), paragraph 7.3

It is vital that the composition of any board includes direct representation of the consumer interest.

We do not agree that DCC users alone can advocate for what is best in the interests of consumers, as user interests cannot be assumed to align with consumer interests. For example, we do not believe users will have a strong commercial incentive to ensure costs are managed effectively. As costs will be the same across all suppliers (on a per customer basis), a competitive market will allow these costs to be passed through to customers. This reduces suppliers' exposure and so incentive.

Ofgem should have appropriate oversight and retain appropriate powers

Ofgem also has a key role in ensuring DCC activities reflect consumers interests, both in ensuring plans are suitable and effective incentives on performance are maintained. Ofgem should be required to formally approve business plans. For example, it will be difficult to balance the interests of current and future consumers. Ofgem approval will mitigate the risk that a user-controlled board focuses only on the delivery of current core services, rather than innovation that may be in the interest of future consumers.

To ensure effective performance incentives, we agree that Ofgem should retain the power to remove directors or sack the Board. Further, Ofgem should ensure that the performance objectives of DCC executive and Board members reflect DCC performance and consumer interests.

Regardless of which model is chosen, we would advocate for this to be pursued on the fastest possible timeframe, and do not see value to consumers in a lengthy licence extension.

If Option A is progressed, we would welcome the move to an ex-Ante framework where possible.

Yours sincerely

Euan Graham, Senior Policy Researcher

Question 1: Which of the two broad models do you think we should adopt as the basis for our design of the future regulatory framework for DCC and why? What are the features of your preferred option that lead you to this choice?

It is our view that Option B should form the basis of the regulatory design framework for the DCC, as it is more likely to drive decisions that are in the interests of consumers.

Primarily, Option B would provide users and consumers with greater influence in setting the overall direction of the DCC. In order to deliver better outcomes for consumers, it is vital that consumer interests are represented directly on this board. Certain costs may be borne equally by suppliers, and then passed on to their consumers, and in these cases there would be limited incentives for suppliers themselves to ensure value for consumers.

We would envisage that through this enhanced strategic oversight, issues that consumers and users are encountering could be focused on in a more timely manner, which would increase the potential for external services to be procured at lower cost.

Beyond this, it could remove the need for a complex price control framework to set incentives for DCC decision-making. While a move to ex-ante price control framework under Option A would be an improvement on the current framework, we observe the difficulty in applying price control frameworks with asset light businesses such as the DCC.

Lastly, the involvement of users and consumer representatives in the board of the DCC would provide the opportunity for greater transparency over costs, and provide more clarity of how consumers money is spent. This could enable improved accountability over whether services are procured and delivered at efficient cost.

Question 2: Do you agree with the way we have applied the principles in our analysis of the options? Please state your reasoning.

No response provided

Question 3: With regard to Option A, to what extent do you think that changes to the DCC licence alone could provide incentives that result in a third party investor-controlled DCC Board providing the quality and cost of service that DCC customers require, and managing DCC effectively?

We do not see Option A as being as effective as Option B in delivering quality and cost of service. Whilst we would welcome a move to ex-ante price control framework, we highlight the difficulty of applying a price control framework to an asset light organisation such as the DCC.

Question 4: With regard to Option B, how effective do you think a non-profitmaking, stakeholder-controlled or independent DCC Board would be in providing the quality and cost of service that DCC customers require, and managing DCC effectively?

As explained in our answer to question 1, Option B provides the best conditions for the DCC to drive decisions that are in the interests of consumers, provided that there is direct consumer representation on the board. Without this, we would be concerned that there could be limited incentives to reduce costs in certain circumstances as suppliers would be able to pass through any costs to their customers. We would also envisage that Option B would enable user and consumer issues to be focused on in a more timely manner, which would increase the potential for external services to be procured at a more efficient cost.

Further, it is vital that Ofgem still retain appropriate oversight and powers. Ofgem should be required to formally approve business plans. For example, it will be difficult to balance the interests of current and future consumers. Ofgem approval will mitigate the risk that a user-controlled board focuses only on the delivery of current core services, rather than innovation that may be in the interest of future consumers.

To ensure effective performance incentives, we agree that Ofgem should retain the power to remove directors or sack the Board. Further, Ofgem should ensure that the performance objectives of DCC executive and Board members reflect DCC performance and consumer interests.

Question 5: Do you have any views on the details of Options A and B

Please refer to our response to question 1 and 4, in which we lay out the need for direct representation of the consumer interest in any board, and the need for Ofgem to retain appropriate oversight and powers with any future regulatory model.

Question 6: What are your views on the options identified and the associated trade-offs for a possible licence extension?

It is our view that the transition to a new model should be made as quickly as possible in order to deliver benefits to consumers. As the new regulatory model will affect the governance of the DCC, rather than the day-to-day operations of staff itself, we do not see a case for a lengthy handover process.

Whatever model is settled on, the existing licensee should set out an exit plan as soon as possible which lays out how any changes to the regulatory model may affect ongoing programmes, and the procurement of new or soon-to-expire contracts.

We have not provided responses to any other questions.