

Email sent to digitalisation@ofgem.gov.uk

26th January 2024

Octopus Energy's response to Ofgem's consultation on Data Sharing in a Digital Future: Consumer Consent

We thank Ofgem for the opportunity to respond to this consultation on data sharing in a digital future.

In essence, our engagement with this consultation has been challenging due to the lack of specific information on (1) the entities covered by the proposals and the precise datasets governed, (2) the details of the centralised platform solution, and (3) the differentiation between proposals related to data sharing processes and those concerning consent solutions. Additionally, it remains unclear which deficiencies in current consumption data sharing processes Ofgem aims to address, as we believe the existing arrangements are effective.

Our primary concern is with Option 1, the centralised dashboard, as we fear it may offer inadequate protection of customer data and the investment may not be justified at this stage.

To provide more meaningful input, we need to have a comprehensive understanding of the data falling under the consent solution's scope. The mention of consumption and tariff data is insufficient, as different entities, subject to distinct regulatory frameworks, would be responsible for sharing these different datasets. Clarity on these aspects is crucial to assessing the adequacy of current processes.

Furthermore, the consultation lacks specificity on the centralised platform solution, and there is a tendency to conflate the consent solution with data sharing processes and enabling infrastructure. We advocate for clearer language in future consultations to ensure Ofgem receive more informed and useful feedback.

Please reach out to madelaine.brooks@octoenergy.com in the first instance should you wish to discuss our response.

Q1. Do you agree that a Consumer Consent solution is required as per the taskforce's recommendation?

We do not agree with Ofgem's assessment that current processes and procedures are insufficient. There are processes within SEC Section I: Data Privacy which outline a User's obligations when requesting access to consumption data on behalf of a consumer. The Privacy Controls Framework allows the Independent Privacy Auditor (IPA) to perform privacy assessments on third parties with 'other user' permission to DCC data. Our market research with several third party platforms¹ (details shown in the attached appendix) has shown that there are robust processes in place to (a) verify that a user is physically present or has access to the premises where the third party has requested their consumption data be shared, and (b) that they are the energy consumer at the given property. In all cases, the language used in the signup process was transparent and free from legalistic jargon, and the parties clearly outlined the data they would require access to, why and for what duration.

We challenge Ofgem's aim to widen access to consumer consumption data. There needs to be sufficient protection which limits this to parties where explicit consent has been given to maintain consumer protection and privacy. Aggregated or synthetic data can be accessible by a broader range of parties for research and development purposes, but we see no reason for wider access to direct consumer consumption data. It is also of high importance that data sharing permission is only granted for the length of period the consumer has agreed to with a specific third party and only that third party is permitted to use consumption data in the way that has been described to the consumer. This is an extremely important principle to retain to ensure that consumers give active consent to every party that requests access to their consumption data. Retaining this principle will ultimately help to maintain, and not worsen, consumer trust in the energy industry.

We are comfortable that the 'Other User' category which permits third party DCC data access, and the data privacy terms within the SEC, have sufficient consumer protections in place, along with robust processes to allow consumers to revoke

¹ Hugo, Loop and Bright

data access and re-approve access at regular intervals. Whilst 'Other Users' are currently obliged to "put in place put in place arrangements designed in accordance with Good Industry Practice to ensure that each person from whom it has obtained consent pursuant to Section 11.2 to 11.4 is the Energy Consumer", our market research (see Appendix 1) has shown that robust authentication measures are in place with several third parties we have tested, and we are confident that the IPA process to perform privacy assessments is sufficient to ensure this clause is being met.

Therefore, we do not agree with Ofgem's assessment that further intervention is needed at this point. We request that Ofgem provide evidence that the existing 'Other User' access to DCC data is inadequate before any fairly significant changes, such as the central consent platform, can be justified and considered by industry further.

2. Could you please provide any reasons why the current methods for obtaining consent from a consumer might be ineffective or inefficient?

As above, we do not agree and would urge Ofgem to present some more concrete examples to prove that current methods are ineffective or inefficient.

3. Do you believe that consumers are sufficiently motivated to engage with the consent solutions proposed in this Call for Input? Please elaborate on your answer.

Engagement with the consumer consent solution largely depends on the detail of the solution that is implemented. Given there is limited detail about what the solution might look like, where it might fit in the sign-up journey and how customers may interact with it, it's difficult to evaluate how likely engagement will be. For example, it is unclear at what interaction point with a consumer each consent solution is intended to interrupt. Adding this into interaction points that already exist will work, but if new interactions are required then there is a high risk that customer engagement is reduced.

In addition, many customers will not appreciate or understand the benefits of sharing their data with third parties beyond those they have given explicit consent to, often through a customer-instructed action. Therefore, such a solution will require significant explanation and education before it is likely that consumers will willingly allow additional third parties to access their data.

Whilst we agree that any solution needs to ensure consumer protection is at the heart of development, it is difficult to fully assess each option without more detailed information about the design. For example, option 1 (as we have interpreted it) is most at risk of low consumer engagement, as new authentication processes and potentially login details will be needed and there is a high risk of information overload depending on the number of parties that would be listed as standard on the platform when a customer is directed to it.

4. Do you agree that the four use cases referenced are high priority use cases? Can you describe any other high priority use cases?

We agree that the use case 3 - 'reduced barriers to market entry for increased competition' and 4 - 'consumer empowerment, protection and trust' are important and relevant to the consumer consent solution. However, we do not view that 1 - 'retail specialisation' and 2 - 'energy system flexibility' are direct use cases for a consent solution. Whilst we agree that both are hugely important to incentivise GB to meet its decarbonisation targets, we view that other enablers are more capable of achieving these outcomes - such as licensing of flexibility service providers or enabling aggregated demand side response to participate in flexibility markets more readily. In addition, use cases 1 and 2 could only be achieved if you assume that parties beyond those a consumer gives explicit consent to (eg. Local Authorities, DNOs or third-party innovators) have access to a given consumer's consumption data. Given we are strongly against widening accessibility to a consumer's consumption data (without active consent), and given Ofgem hasn't explicitly said that this is the intent of the consumer consent solution, we disagree with the inclusion of these use cases.

5. Do you believe that a new Consumer Consent solution would enable the improvements to the energy system described in the four use cases? If not, could you please elaborate?

No response.

6. Do you agree with our method and scoring of options?

There are a couple of key principles we think Ofgem have missed in their assessment:

1. Authentication must underpin any consent solution

Validation of the relationship between a meter and a consumer is fundamental to underpin any consumer consent solution to ensure consumers' data is protected. At present, the burden of authentication is placed on third parties who wish to gain access to a consumer's smart meter data and are responsible for validating this and mapping consumers to meters. This is an integral part of the consumer consent journey, which has been missed in Ofgem's publication.

Open Banking is mentioned frequently in the consultation, however, we'd like to highlight that with Open Banking there is no central data sharing infrastructure. Data sharing occurs without a central platform, with the customer authenticating on both the third party app and their personal banking app. There is no additional central data-sharing service that you need to authenticate against, and we are concerned that the consultation has not reflected this correctly.

2. The solution should not introduce any new complexity in existing consumer journeys

Any new consumer consent solution introduced mustn't impose any additional complexity or process steps in existing consumer journeys. The uptake in Low Carbon Technologies accompanied by the tariffs and products to manage them smartly must continue to grow at pace. Introducing any new complexity in the process for a customer to enter into new contracts or applications with third parties could result in fewer successful conversions. This would be a negative outcome, given the urgency of action needed to meet GB's decarbonisation targets.

7. Which of the options referenced in this chapter do you believe would be the most appropriate Consumer Consent solution, for the industry, the government, and the consumer?

Assuming that consumption data as accessed through the smart meter is the focus of this consultation, we are not convinced that there is enough evidence that the current processes for managing consumer consent are insufficient. It is not clear what Options 2 and 3 will deliver on top of processes which already exist within the SEC and under the 'Other User' category for DCC smart meter data access, therefore we ask Ofgem to set out more clearly the gaps and weaknesses

they have observed with current processes. We are also concerned that some of the options would provide less, not more, customer control over their data.

Therefore, given our understanding of Option 1, the consumer consent dashboard, we are very concerned by this solution and unconvinced it is an improvement on the processes that already exist to manage consumer consent with third parties. Indeed, it could provide less, not more, customer protection. Whilst there could be some small marginal gains for consumers being able to view all consent permissions they have given in one place, there are much greater risks that come with developing a central platform that we view outweigh the small and limited benefits it may deliver.

A few of the key risks from Option 1 are as follows:

- It is unclear how the platform could authenticate a consumer's relationship with a meter, and how this could be done without introducing new logins and interfaces to verify the relationship. We would strongly recommend against the introduction of any additional steps which could worsen conversion rates for new innovative products which will aid consumers in saving money or improving understanding about their consumption.
- It is not clear that only the parties a consumer actively gives consent to would have 'opt-in' status on the platform. This protection must be retained to at least maintain current levels of consumer trust in the energy industry.
- Developing mass integration with the central dashboard will be complicated and costly.
- Consumer engagement is likely to be low if starting from an 'opt-out' basis, significant education and explanation would be needed to explain who each party is and what the benefits of sharing data with them are (especially if parties beyond those a consumer explicitly gives access to are displayed on the platform).
- There is a high risk of reducing rather than bolstering consumer trust in the energy industry if the centralised platform solution allows a broader range of parties to have access to a consumer's data, beyond the parties they have explicitly given consent to.
- We are not convinced that this dashboard will deliver benefits of sufficient scale on top of existing processes to warrant the cost and development time to build a centralised solution.

In summary, we are strongly against the development of a centralised platform and do not agree that there is sufficient evidence to prove that current processes

are insufficient to ensure consumers are protected and can easily approve or revoke consent with any third party when they choose, in respect of smart meter data specifically. We agree with Ofgem that we should not reinvent the wheel and should learn from the success of Open Banking. However, we would like to highlight that Open Banking does not rely on any central infrastructure or central authentication solution, its success is underpinned by networks, not centralisation. It is also unclear how Options 2 and 3 will deliver any material benefits on top of current frameworks which exist in the SEC and as defined by 'Other User' access to DCC data. Therefore, we cannot see any reason for either option to be pursued further.

8. Please can you explain why you chose a specific option? Do you have any suggestions on how to improve this option?

No response.

9. What barriers do you see to the successful implementation of a new consent solution?

No response.

10. What do you think are the roles of Ofgem, industry and other stakeholders in enabling a simple and effective consent solution?

No response.

END

Appendix 1 - Customer sign up journey on third party apps requesting consumption data access

Loop

Step 1 of 4

What's your address?

Please enter the postcode where your smart meter is located.

Postcode

Find my address

No longer want a Loop account? [Delete it here](#)

Your 13-digit MPAN number

Loop has pre-filled your MPAN. Please confirm that this is the correct MPAN.

Some examples where this code may be located, are shown below.

[Show examples](#)

Confirm

or

Use a different MPAN

Terms and Conditions

Trust Power Ltd requests your consent to access, store and process your energy consumption, generation and tariff information. If you agree, the following information will be required from your smart meter on a daily or more frequent basis:

- Energy consumption & generation information for both gas and electricity (where available)
- Energy tariff information containing information of the price you are charged for energy consumed
- Information identifying the energy meter (number, location, type)

Read the full [Terms and Conditions](#)

☒ I confirm that I am the bill payer or nominated owner of the data mentioned above, and have the authority to grant consent for it to be accessed and used in the ways described.

Continue

Step 4 of 4

Verify your address

You can only access smart meter data if you live at the property. You can verify this with one of the methods below:

Use a payment card
Loop is free and you won't be charged.
[Verify using payment card](#)

or

Use a code from your in-home display (IHD)
On the next screen we'll take you through the process of locating this code on your in-home display.
[Verify using code from IHD](#)

Hugo

Step 1 of 4

Tell us your address

Please enter the postcode where your smart meter is located.

Post code

Change

Select your address

Address not listed? [Click here](#)

Next

Already have an account? [Log in](#)

Step 1 of 4

When did you move to this address

Hugo can collect up to 13 months of data from your smart meter. We don't want to collect data from before you lived in the property.

☒ I moved in more than 13 months ago.

☐ I moved in less than 13 months ago.

Next

Already have an account? [Log in](#)

Moved in details updated successfully

Step 2 of 4

Your MPAN number

Hugo has found your 13-digit MPAN based on your address.

Confirm your 13-digit MPAN number:

Where can I find my MPAN?

Electricity

Gas

Step 3 of 4

Terms and Conditions

Hugo Energy requests your consent to access, store and process your energy consumption, generation and tariff information.

If you agree, the following information will be required from your smart meter on a daily or more frequent basis:

- Energy consumption & generation information for both gas and electricity (where available)
- Energy tariff information containing information of the price you are charged for energy consumed
- Information identifying the energy meter (number, location, type)

We use the n3rgy data service (<https://data.n3rgy.com>) to interface with the national smart meter systems in order to collect, store, manage and share with Us your Smart Meter data. This service uses the Smart Energy Code (<https://www.smartenergycodecompany.co.uk/>) Party credentials and Party ID of its parent, N3RGY LIMITED, incorporated and registered in England and Wales with the company number 11203504 whose registered office is at 4 Ovington Drive, Fleet, United Kingdom GU51 1DR.

Step 4 of 4

Choose a method to verify your address

To access this smart meter data, we need to verify you live at this address.

Verify with debit/credit card
(card must be registered at address)

- Fastest and easiest way to verify
- No payment ever taken
- Card details sent by encryption

Powered by **Stripe**

Or

Verify with utility bill

- Bill must be for your own address.
- Max 7 attachments allowed.
- JPG, PNG, PDF files are supported.

Bright

