

Angela Love SEC Panel Chair
Smart Energy Code Company Limited
77 Gracechurch Street
London, EC3V 0AS

Ofgem via email
flexibility@ofgem.gov.uk

Ofgem Consultation – Flexible Market Asset Registration Consultation

24 September 2024

Dear Euan, Nina and Francis,

The Smart Energy Code (SEC) Panel is pleased to respond to the consultation on Flexible Market Asset Registration. The consultation covers high level principles related to Flexible Market Asset Registration, and we broadly agree with the principles set out.

While the present scope of the consultation may not touch directly on the SEC arrangements, as Ofgem, Government and the industry continue working on the solutions and new arrangements to provide clarity on operational and governance matters, there may be areas of specialised expertise that lay within the scope of the SEC. We outline those areas in our consultation response below to build full awareness of the skills, expertise and knowledge, as well as scope, of the existing SEC arrangements. In doing so we hope to avoid duplication of functions and to allow for a more streamlined, connected operation of the codes and central market functions.

We note that the Flexible Market Asset Registration appears to suggest a solution which would require a database of information that will be based on postcode, or a similar identifying characteristic, and that Consumer Consent would be required. In parallel to this consultation, Ofgem are consulting on proposed consumer consent solution, and the governance of Data Sharing Infrastructure. We believe that there is a risk that if there is parallel development of the Data Sharing Infrastructure, Flexibility Market Asset Register and Consumer Consent Solutions, that these developments could become misaligned, and that there could be potential unintended outcomes and consequences and that it will be more difficult to realise the full potential benefits.

We note that the consultation did not set out a cost benefit analysis for the Flexibility Market Asset Registration and that there is no detail of how the service would be funded. We believe that there is always a need to keep costs to consumers as low as possible and that the assessment of options for new services/infrastructure need to be considered in terms of efficiency and effectiveness, and analyse in detail the benefits that would be provided to consumers, who ultimately pay the costs.

We anticipate that additions to the regulatory framework may also be required to ensure that industry participants comply with the intention of the changes. We believe that Ofgem need to consider utilising as much of the existing regulatory framework as possible to avoid complexity and the need for market participants having to fund and deal with multiple arrangements.

In our response we provide an overview of the existing privacy and security frameworks in the SEC for Ofgem's awareness of the responsibilities contained in the SEC and what SEC Parties already have to do under the SEC in relation to privacy and security. Table 1 below sets out what is done under the SEC and how these could be made applicable to the Flexible Market Asset Registration scheme, should Ofgem wish to utilise the existing capability of the SEC.

We agree with Ofgem’s case for change and note that it is building on existing initiatives and solutions/platforms already in use. We believe that in order to deliver benefits early, the solution needs to be modular and extendable. The market facilitator should consider this as part of its Working Group.

The DCC has been a consortium partner for the DESNZ-funded Automatic Asset Registration (AAR) and Central Asset Registration (CAR) Innovation Project. We are of the view that these projects illustrate the benefits of the DCC systems and processes that are governed by the SEC. We note that the role of the DCC is still under consideration, however any role determined for the DCC would most likely be set out under the SEC as the governance framework for DCC. Further details and the applicability of the SEC are set out in Table 1 below.

We note that the Working Group will consider the exact data fields that will be included in the digital infrastructure. Question 4 asks:

“Do you agree with the scope proposed for markets, assets, and data? Should anything else be considered?”

We are of the view that without an understanding of the proposed fields and the potential business case, it is difficult to determine whether any information will be required from the DCC. Once there is clarity on this point, we would suggest that the Working Group engages with the SEC Panel and the DCC to ensure there is effective use of the knowledge and experience of managing the DCC network and supporting governance frameworks.

For example, the SEC has Privacy and Security requirements set out in the code and as such has robust and tried/tested processes and standards which are actively used and assessed. We are of the view that the Market Facilitator should engage with the SEC Panel and the DCC to make full use of the expertise and experience that is available. There may also be elements of the SEC provisions that could be used in the Flexibility Market Asset Register. We are concerned that to date, the work on Consumer Consent Solution, has not involved consideration of the existing SEC arrangements. The SEC Panel has significant expertise and experience in both Security and Privacy topics with dedicated Security Sub-Committee and a Privacy Sub-Committees that could be used and learning applied, along with specific rules in the SEC that govern these subjects. We also have a User Competent Independent Organisation contract, currently fulfilled by Deloitte, which augments the in-house SEC capability and is used to audit SEC’s Parties adherence to both the security requirements and standards.¹

We are of the view that the topics in Table 1 will need to be considered as part of any solution. We have based Table 1 on the existing processes under the SEC, and our extensive and in-depth understanding of these processes from a governance and operational point of view. As they are already developed in the SEC we believe it will be easier to adapt and adopt for any future changes. This will help avoid a proliferation of codes and/or regulations and alleviates the need to have licence changes. Our view is that this will essentially make it easier for licenced entities and new market participants to operate in the market as well as reducing the regulatory burden.

Process	Used by the DCC
Accession Process for Users to Access Data on the DCC System	An onboarding process for entities using the service should be considered in order to maintain efficient security and privacy.

¹ [Security Assessment Process - Smart Energy Code \(smartenergycodecompany.co.uk\)](https://www.smartenergycodecompany.co.uk/)

Security and Data Protection Assessments	These are vital elements to any system that contains privacy data and the SEC applications should be considered.
Access to Data and Ongoing Monitoring	It is vital to ensure that monitoring occurs to ensure the integrity and security of the data.
Consent from the Consumer	This will be required, the interaction between Flexible Market Asset Registration and the Consumer Consent Solution that Ofgem is currently consulting needs to be clear.
Role of the Data Communications Company	We note that the role of the DCC is still under consideration.
Withdrawal of Consent	It is essential that there is a mechanism to deal with a consumer's withdrawal of consent. This will be dependent on the Consumer Consent Solution.
Auditing for Compliance with the SEC requirements (Section I)	A means to audit the compliance of parties is essential to ensure data and security integrity.

Table 1. SEC Processes and their applicability to FMAR solution.

Below we provide a brief explanation for each of the processes mentioned in Table 1 above, which are already part of the SEC, and how the activities work under the SEC arrangements. If the DCC is chosen, we appreciate that changes may be required to the existing processes to facilitate a new set of processes and systems. As more details are developed, we would like to contribute and remain actively involved in sharing our experience and expertise to accelerate this workstream.

Accession Process for Users to Access Data on the DCC System:

Before a User (such as an energy supplier, network operator, or third-party intermediary or software provider) can access consumption data on the Data Communications Company (DCC) system, they must go through a formal Accession process to become a party to the Smart Energy Code (SEC). This ensures that all Users accessing consumer data comply with the SEC's obligations which set out detailed and robust security and privacy requirements, developed with NCSC.

Security and Data Protection Assessments:

Before gaining full access to the DCC system, the User must undergo a Security Assessment to ensure that their systems and processes are compliant with the data security standards required by the SEC and must have their status formally approved before User Entry to the DCC Systems is achievable. The User must also demonstrate that it has adequate data protection measures in place to handle consumer consumption data in line with the UK Data Protection Act and GDPR. The DCC also conducts technical assessments to verify that the User's systems can securely connect to the DCC network and manage data appropriately.

Access to Data and Ongoing Monitoring:

Only after successfully completing the Accession process and obtaining security approval testing, the User is granted access to the DCC system. Access to consumption data is strictly regulated and they

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are subject to ongoing compliance monitoring. This includes regular, annual Security and Privacy Assessments by a Competent Independent Organisation (CIO) as well as, at least annual, Penetration Tests to identify any security vulnerabilities. Users are required to report any material changes to the components or functionality of their User Systems and to obtain formal approval before these become operational. Any security incidents or vulnerabilities must be reported to the SEC. The application of these strict but tried and tested controls mitigate risks and protect consumers.

Consent from the Consumer:

For Other Users, a consumer's explicit and informed consent is required before the Other User can access any energy consumption data. The SEC describes this as a proactive opt-in by the consumer, ensuring they are fully aware of:

- Who is accessing their data
- What data is being accessed (i.e., monthly, daily, or half-hourly data)
- What purpose the data will be used for

Role of the Data Communications Company (DCC):

The DCC is the central body responsible for managing communications between smart meters and authorised parties. It ensures secure data transfer between smart meters and the entities requesting access, like energy suppliers or authorised third parties. Once consent is obtained, the User requests the data from the smart meter through the DCC.

Withdrawal of Consent:

Consumers can withdraw consent at any time, and the User accessing the data must stop collecting it after the withdrawal becomes effective. Withdrawals of consent typically happen in two situations - either through consumer withdrawals or change of tenancy notifications. Users must stop accessing consumption data from the relevant consumer's smart meters at the point they receive notification from the Consumer. A User may be notified of a change of tenancy by the consumer, the consumers Supplier, or the DCC. Where Users receive such a notification, the SEC Privacy Controls Framework requires them to treat this as an instance of consent withdrawal and to stop collecting data from the particular smart meter.

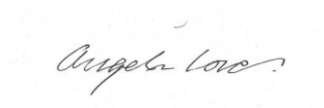
Auditing for Compliance with SEC Section I:

The process for auditing all Users' compliance with data privacy rules under SEC Section I is fulfilled by the CIO acting as the Independent Privacy Auditor (IPA). This ensures that all parties handling smart meter data adhere to the privacy and security requirements set out in the SEC.

As your consultation specifically calls out Resilience, Security and Privacy, we would be pleased to engage with Ofgem on how to ensure a flexibility solution has these aspects at its core. Our experience could provide beneficial insight into the proposed options.

If you would like to discuss any of the issues discussed further, please do not hesitate to contact me at SECAS@gemserv.com.

Yours Sincerely,



Angela Love,
SEC Panel Chair