

October 2010

Smart Metering

SRSB & Beyond Project

Response to DECC/Ofgem Consultation on
Smart Metering for Electricity and Gas –
October Response



Overview

This document provides responses from the Energy Retail Association to the Smart Metering consultation questions highlighted for an October response in the consultation papers published on July 27 2010.



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2 EXECUTIVE SUMMARY

As we said in our September response, we congratulate Ofgem and DECC on the release of the Prospectus and we are pleased that the content is generally well defined and well reasoned. The additional clarity given by preferred positions is welcomed and we look forward to continuing to participating fully in the ongoing development work of the Programme through Phase 1 and beyond. It is important to ensure that the Prospectus is developed further into firm policy positions and that we don't have outstanding uncertainty that delays the delivery of smart metering to Great Britain.

We have already outlined key points for consideration in our September response and there are still some significant issues to be clarified and on which there is divided opinion in the industry. In this response we try to highlight the outstanding issues and further topics for consideration by the Expert Groups.

The scope of DCC services for day 1 of operation and the approach to any incremental DCC service development is one of the key policy decisions required in the response to the Prospectus consultation. We will continue to provide our input to the expert groups developing the options for DCC. There are differing views amongst the Supplier community on the optimum scope of DCC for Go-Live, however we retain a common view on the strategic vision for smart metering as set out in paper: <http://www.energy-retail.org.uk/documents/SRSMStrategicVisionSummary.pdf>

The definition and selection of any potential Interim Interoperability Arrangements remains a key area of policy for Ofgem/DECC. We are pleased to be contributing and supporting the development work in DCG SG2, but there is no consensus view yet across all Suppliers on Interim Interoperability Arrangements. If any interim arrangements are to be implemented, then clear policy from DECC/Ofgem is required in the response to the Prospectus Consultation. Anything less than clear policy will result in delays, which will compromise the potential benefits of interim arrangements in advance of the enduring DCC.

The questions in this consultation highlight the need to understand the timing implications for enduring DCC and any interim arrangements and that is certainly one of the key questions being asked in information requests out to industry and the supply chain. It is important to define a central implementation plan as soon as possible and to provide transparency on the assumptions made in deriving that plan. There are a number of dependencies between the central programme and the delivery programmes of key delivery partners (particularly Suppliers) and we are currently reviewing the implementation planning work we previously provided to Ofgem & DECC to provide an update.



Data privacy is a key area for consideration as part of smart metering development. We recognise the need to protect customer privacy and we are strongly of the view that the best way to achieve this is by using the current Data Protection Act 1998 (DPA), which places the necessary obligations on Suppliers (and indeed any party) to protect personal information. There are a number of legitimate uses of data to deliver customer benefits set out in the DECC/Ofgem Impact Assessment and it is important that these are not constrained. Benefits in the Smart Metering Impact Assessment include £390m and £113 million for Time of Use Tariffs and Theft respectively. We recommend that Suppliers are able to be a part of the Privacy & Security Advisory Group and any future Expert Group on Security or Privacy to ensure a practical, real-world understanding of managing data privacy and security is included in the programme.

The ERA has been promoting the need for an Installation Code of Practice to provide confidence to consumers in the installation process. We are continuing to develop this in discussion with Ofgem and Consumer Groups.

The functionality of the In Home Display is another key area of policy decision for Ofgem/DECC in their response to the Prospectus, as this will drive a significant element of cost. The feedback from the Expert Groups is that the functional requirements proposed in the Prospectus will increase the cost of the IHD significantly over the £15 cost set out, therefore a robust cost benefit analysis will need to be conducted. We also need to ensure that we leave the opportunity for differentiation and innovation within the IHD and interface/products to consumers and not just standardise everything as minimum requirements.

As an individual requirement, we would strongly contest any proposal to maintain account balances at the meter or displayed to customers on the In Home Display. As described in the body of our response below, this requirement would require a fundamental change to Supplier systems in addition to the extensive changes already being introduced to just operate the smart metering infrastructure. We are particularly concerned as to how useful this data might be to customers given the range of payment arrangements they may have.

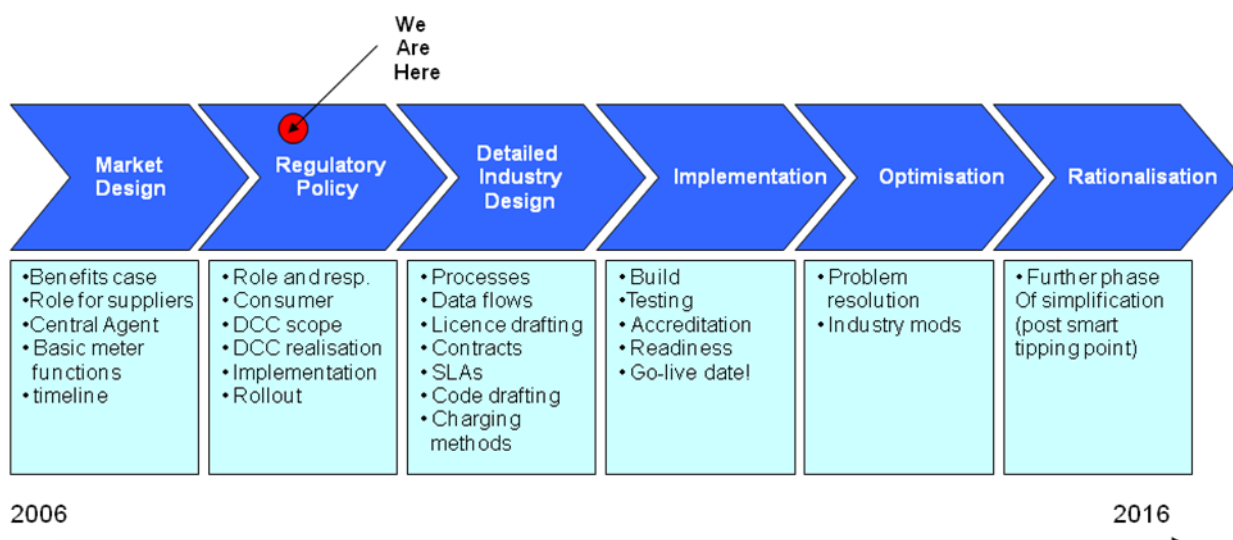
Ofgem/DECC should be congratulated for the shift in momentum that has been achieved in Phase 1a of the programme since the beginning of September. Collaborative working with industry has worked well and great progress has been made in a short period of time. However we believe that we would all benefit from a more structured approach to the programme, with more clarity on the outputs from workstreams and transparency on central programme plans and supporting documentation to give industry a view on what we are working towards.

As the work continues into Phase 2, we feel that it is essential to start working well in advance on the approach to this phase in order to obtain appropriate



and sufficient programme skills to address future arrangements (e.g. programme management and procurement). The appropriate skills should be mobilised prior to the commencement of Phase 2, and a clearer formal programme structure for delivery identified. Appropriate programme governance, identified costs and funding, sufficient industry involvement and transparency from Ofgem/DECC will contribute to the overall success of the programme. To keep momentum, we believe it is important to continue with Ofgem E-Serve in a central role for the Smart Metering Implementation Programme. The overhead and delay from bringing a new body up to speed would be debilitating.

We believe that there will be a number of phases to the Smart Metering Implementation Programme that should be appropriately planned for. A view on the phases to follow is described below.



Overall, we are pleased to see that Supplier requirements are generally captured appropriately. We are encouraged by the progress of the Expert Groups so far and we are looking forward to contributing further to their outputs on an ongoing basis. The response below provides our answers on the October deadline questions as well as outlining further areas to address during the expert group meetings.



3 PROSPECTUS QUESTIONS

Q1 Do you have any comments on the proposed minimum functional requirements and arrangements for provision of the in-home display device?

Please refer to our answers to the In Home Display section later in this response.

Q2 Do you have any comments on our overall approach to data privacy?

Please refer to our answer to Q1 in the data Privacy and Security section later in this response.

Q4 Have we identified the full range of consumer protection issues related to remote disconnection and switching to prepayment?

Yes, we believe that the consumer protection issues relating to remote disablement and switching to prepayment (as a debt prevention tool rather than being a payment method of choice) have been fully identified. The ERA believes that the existing Supply Licence conditions are robust and clearly detail when, where and under what circumstances a prepayment meter can be installed and offer customers protection on disconnection. There may need to be a review of statutory instruments when more detail is available from the design phase.

Q5 Do you have any comments on the proposed approach to smaller non-domestic consumers (in particular on exceptions and access to data)?

The ERA only has a domestic remit, but the key is to maintain the most efficient arrangements for the market as a whole and not introduce any artificial additional layers of operation.

Q8 Do you have any comments on the proposals that energy suppliers should be responsible for purchasing, installing and, where appropriate, maintaining all customer premises equipment?

We broadly support the proposals. However, the ownership model and ongoing responsibilities for maintenance of the WAN module (if this is indeed agreed as the optimum architecture as the need for a separate WAN module is not a unanimous position amongst all ERA members) needs further investigation as the Government's original position of the DCC owning the communications hub seemed the optimum solution. If there is a separate WAN communications box defined, then the Expert Group preference is for



the WAN module ownership to fall under the DCC if it is a choice between the DCC or Suppliers. ERA members fully agree with this view.

With regards to HAN ownership and maintenance, it is our view that each component of the smart metering system will have its own HAN capability, and that this capability will be included in the cost of each component. Further consideration is required in relation to the identification of HAN failure. For example, it may not be apparent which particular part of the HAN has failed, and it is our view that the responsibility for replacing a faulty HAN component should belong to the party with responsibility for the asset in which the HAN component has failed. That said, we do note that from ERA members' experiences to date, the reliability of HAN components appears to suggest that cases of HAN failure could be minimal.

It is our view that responsibilities for IHD provision and maintenance should continue under discussion at the Expert Groups and Sub Groups. DECC/Ofgem need to clearly state who will have responsibility for IHD provision and maintenance in their Prospectus response and particularly what happens to responsibilities at a Change of Supplier event.

Whilst our views on ownership, maintenance and installation of the various components of the smart metering system are clear, we do recognise that further consideration is needed in relation to the principles of cost recovery for the WAN module installation and ongoing maintenance, especially should the WAN be made commercially available to non-energy related services such as water, or home/tele-care services. It may be inappropriate for energy Suppliers to have maintenance responsibility for a commercially operated service. It may be that provision of other commercial services has been a means by which potential DCC comms providers have kept down their costs.

There needs to be robust processes defined to identify which asset has failed, as there will be many assets in the smart metering infrastructure.

Q9 Do you have any comments on the proposal that the scope of activities of the central data and communications function should be limited initially to those functions that are essential for the effective transfer of smart metering data, such as data access and scheduled data retrieval?

We agree that expert groups should be used to develop these arrangements further. There are differing views amongst the Supplier community on the optimum scope of DCC for Go-Live, however we have a common view on the strategic vision for smart metering as set out in paper: <http://www.energy-retail.org.uk/documents/SRSMStrategicVisionSummary.pdf>

Further clarity and definition of service functions is required for common understanding (e.g. data retrieval and scheduling).



Q10 Do you have any comments on the proposal to establish DCC as a procurement and contract management entity that will procure communications and data services competitively?

This seems a reasonable model from the feasible options.

Q11 Do you have any comments on the proposed approach for establishing DCC (through a licence awarded through a competitive licence application process with DCC then subject also to the new Smart Energy Code)?

There are different views amongst the ERA members on the proposed approach for establishing the DCC. It's a critical path activity and the procurement and appointment process will need strong leadership at a senior level, therefore we need certainty as soon as possible on the Ofgem/DECC approach. We support the further development through Expert Groups as there are issues and risks that need to be resolved (e.g. timing/critical path, funding/cost recovery).

We do believe that the industry should adopt principles of good dual fuel governance for smart metering operation. As part of these principles, we believe that code management/administration should be distinct from the focused delivery of commercial services either under DCC or separately. We need to ensure that there is appropriate focus on each activity.

Q12 Does the proposal that suppliers of smaller non-domestic customers should not be obliged to use DCC services but may elect to use them cause any substantive problems?

There are risks of interoperability in the future, particularly for those customers switching between non-domestic and domestic. Consideration needs to be given to the reasons for Profile Class switching and the resultant impact. Additionally, this might cause confusion and difficulties if different processes are created for different customer groups and create unnecessary challenges for smart grid operation.

Q13 Do you agree with the proposal for a Smart Energy Code to govern the operation of smart metering?

We support the proposal for the Smart Energy Code (SEC). It is our view that the best way forward is to keep code management and administration distinct from the focused delivery of commercial services under DCC or separately, as described in our answer to Q11. The scope of the SEC and the handshakes to existing codes will need to be clearly defined. It will be important to distinguish between Code obligations for any interim arrangements or enduring arrangements.



Q14 Have we identified all the wider impacts of smart metering on the energy sector?

In our view the Programme has identified a number of the wider impacts. Further impact will inevitably come to light through the further development phase.

Q15 Is there anything further we need to be doing in terms of our ensuring the security of the smart metering system?

We support the DECC/Ofgem proposal to consider security. It is a key element of Expert Group developments, as security requirements need to be baked in from the start of the design. We welcome the establishment of a new Security Expert Group and look forward to contributing to its developments. Given that the majority of obligations will be placed on Suppliers, we believe it is essential to have Supplier representation at the PSAG, otherwise we run the risk of losing sight of the commercial and technical practicalities of implementation.

4 DATA PRIVACY & SECURITY

Q1 Do you have any comments on our overall approach to data privacy?

We are supportive of the principle of “privacy by design” and expect this to be an integral element of Expert Group developments through Phase 1. Also, the Data Protection Act 1998 already provides a strong obligation to use data fairly, particularly Schedule 2, Part II Paragraph 2, which *provides that where data is collected from a data subject (the consumer), that information is not to be regarded as being processed fairly unless the data controllers (the Supplier) ensures so far as practicable that a privacy notice is provided or made readily available to them.*

The Prospectus recognises that requiring consumers to provide “opt-in” consent may lead to a limited number of consumers allowing access to data, which in turn could undermine the benefits of smart meters. It also acknowledges that an “opt-out” regime would ensure wider availability of data, but could also raise issues around ensuring informed consent and questions as to whether or not such a regime will provide adequate consumer protection. We have had a considerable discussion within the ERA on the options for customers to opt-in or opt-out of data provision and we provide a briefing note on the discussion in Appendix A.



Q2 We seek views from stakeholders on what level of data aggregation and frequency of access to smart metering data is necessary in order for industry to fulfil regulated duties.

The DPA requires energy Suppliers to be able to demonstrate that any uses of consumption are legitimate, that appropriate protections for consumers' rights are in place, and that customers are told how their data is to be used. This flexible but strong approach provides a good basis to regulate Supplier use of consumption data. Where Suppliers can show they need consumption data to pursue legitimate purposes, if they have taken steps to protect the fundamental rights and freedoms of customers, they will be able to collect and use that data, subject to compliance with the other aspects of the data protection principles. Where they cannot, consent from the customer is likely to be required, save for debt collection or other activities related to enforcing contractual rights. The DPA can also facilitate the provision of opt-ins or opt-out if these are needed, such as the right to opt-out from unwanted marketing messages (including to the IHDs).

We are pleased Ofgem recognises the importance of protecting customer privacy to the smart metering programme. However, we are concerned that this must not be implemented in a way that would prohibit Suppliers from delivering competitive services and propositions to customers, nor that prevents the benefits identified in the Impact Assessment being implemented. There are certain benefits around having access to granular data, for instance, in order to improve Suppliers' purchasing from the wholesale market, thus lowering costs to consumers. Energy Suppliers are being tasked with developing fit-for-purpose tariffs (that help customers switch load and deliver demand-side management) and reducing theft and debt, among many other expectations. Benefits in the Smart Metering Impact Assessment include £390m and £113 million for Time of Use Tariffs and Theft respectively. Delivery of these benefits simply will not happen if Suppliers are prevented from accessing information they need to undertake these activities.

We acknowledge the intent in Ofgem's principle that consumers should "choose in which way consumption data shall be used and by whom, with the exception of data required to fulfil regulated duties". However, there is a lot of discussion needed to ensure this rule is developed in a practicable, commercially viable way that still protects customers appropriately.

We expect those with a direct relationship with a customer, such as Suppliers, to be able to access consumption information subject to clear and transparent contractual arrangements with customers that provide for this and so long as they comply with current DP law. Other parties without a direct relationship with customers, such as network companies and non-industry parties, should only access and use consumption information to fulfil regulated duties or because they have a customer's agreement, for example through the provision of services to that customer.



We recognise the need to protect customer privacy and we are strongly of the view that the best way to achieve this is by using the current Data Protection Act 1998 (DPA) as the primary basis for regulating the use of consumption data within the customer-supplier relationship. Consumption information, like other customer related personal and account details, is ‘personal data’ for the purposes of the DPA. This is a well established framework for determining how to handle personal information, in operation for over 25 years in the UK. We see no reason of policy or law to reinvent the wheel and develop a whole new set of law and regulation when current law can be used and is more than adequate. Indeed, principles of better regulation would dictate current rules are used unless there is good, well set reason for not doing so. We have seen no analysis of the DPA or other laws that would support taking a different approach. Furthermore, the EU Commission is reviewing the current Data Protection Directive from which the Act is derived. Any weaknesses in the Act, if any are identified, should be fed into this review.

A further benefit of the DPA, particularly for consumers and their representatives, is that it would prevent Suppliers from obtaining excessive, unnecessary consumption data (a requirement of the 3rd data protection principle). The DPA contains strong enforcement provisions, including new measures introduced in April this year, for breaches of its principle.

The key advantage of the DPA approach is that Suppliers are set up to comply with it already. Customers are already informed about how their data is to be used via Supplier privacy notices, which are included in terms and conditions and on Supplier websites. Many of these are approved by plain language groups to ensure they are clear and easy to understand. These privacy notices set out how Suppliers use consumption data – e.g. for the development of products and services, debt prevent, theft detection, energy efficiency advice and services, forecasting, purchasing, business improvement. These purposes will fundamentally not change in the smart metering world. What will change is, because of the more detailed information available, the range of products and services, the quality of the energy efficiency advice and customer service, the ability to prevent and detect theft and debt will all markedly improve. So the purposes of which consumption data will be used will not change, merely be developed. It is vital Ofgem recognises this point.

We note that Ofgem’s consumer research shows consumers are not overly concerned about the impact on their privacy of Supplier access to their consumption data. The report noted that consumers were more concerned about whether equipment worked, was reliable and cost effective than “about data privacy and how the data collected might be used” or about Suppliers having access to consumption data. Nor were any “widespread concerns about energy companies having access to information about their energy use” expressed. Even where these were raised they were not supported.



We caution Ofgem against implementing a simplistic, consent only based version of its proposed principle. In addition to the issues raised above, the burden of managing lots of consumer preferences would be costly. Each preference available to a customer would need an opt-in or opt-out box in each of a Supplier's information systems, requiring significant changes to current systems and adding to the costs included in the IA. At the very least any preference afforded would need to be very clearly defined and targeted, but more importantly, Ofgem should be clear these are genuinely what consumers want before putting them in place. Ofgem's own consumer research suggests a negative answer to both these points.

A consent only approach could also have the real potential to destroy the value to Suppliers and customers of smart metering. Depending on how consent was required to be collected, opt-ins could be very small. If customers had to proactively contact Suppliers to opt-in (for example, after being sent terms and conditions or a letter seeking consent), opt-in rates could be low as 1-2%. This would completely destroy any value for Suppliers and risk wasting large amounts of investment in infrastructure. Nor would such a rate of opt-ins indicate that customers do not want their data to be used. It would be more of an indication that customer do not wish to engage with what they see as unnecessary and welcome administrative processes.

It is vital that Suppliers are able to be a part of the Privacy & Security Advisory Group and any future Expert Group on Security or Privacy to highlight the above mentioned aspects of data privacy and finding the right solution. This will also ensure a practical, real-world understanding of managing data privacy and security is included in the programme.

Finally, we consider a wider programme of consumer education is needed to help consumers understand what smart meters are, what they aren't, and how information from those meters is used and protected. We are keen to work with Ofgem, Consumer Focus and others to develop such an education and awareness programme.

Q3 Do you support the proposal to develop a privacy charter?

Privacy needs to be considered as embedded through the requirements within the market design. We would expect compliance with existing obligations. The current obligations under the DPA 1998 offer sufficient transparency and protection in relation to how and why Suppliers will use data from smart meters.

It is our view that any privacy charter would be unnecessary as existing regulations around protection of privacy are sufficient.



We will provide further input to this through Phase 1a expert groups and sub-groups.

We fully support good regulation of data and privacy. However, a pragmatic, sensible approach to the collection of the use of data is needed, supported by good quality regulatory oversight to prevent misuse and security breaches.

Q4 What issues should be covered in a privacy charter?

We do not believe that a privacy charter is necessary, but if this is a subject for development, we will provide further input to this through Phase 1a expert groups and sub-groups.

Q5 Do you agree with our approach for ensuring the end-to-end smart metering system is appropriately secure?

We are supportive of the principles of risk assessment and believe that baking security requirements into the design of the end-to-end smart metering system should be done as early as possible. We are keen to understand the implications and options of the end to end security, and would be willing to lead a risk assessment exercise. We expect this to be an integral element of Expert Group developments through Phase 1 and we expect the ERA and Suppliers to be part of any security or Privacy Expert Group.

5 CONSUMER PROTECTION

Q1 Do you have any views on our proposed approach for addressing potential tariff confusion? What specific steps can be taken to safeguard the consumer from tariff confusion while maintaining the benefit of tariff choices?

We agree with the arrangements suggested by Ofgem to avoid potential tariff confusion. Moreover, should any changes be implemented in this sector, it is our belief that any potential amendments to the robust existing provisions which protect customers in the competitive market would need to be assessed in detail by all appropriate stakeholders.

Q2 Do you agree with our proposed approach for addressing unwelcome sales activities during visits for meter installation?

We are supportive of the views expressed and believe that existing measures should remain appropriate in a smart metering environment. We would expect the Installation Code of Practice to cover these activities and we are making progress on the content of the Code of Practice.

Q3 What do you consider as acceptable and unacceptable uses of the installation visit and why?

We believe that this will have greater clarity once the Installation Code of Practice has been developed. When making reference to what might



constitute an “unwelcome” activity, clear published guidelines for the benefit of both the consumer and the Supplier should be developed in advance of the mass installation of smart meters. The ERA and its members are fully committed to developing an Installation Code of Practice on a collaborative basis with Ofgem and consumer groups. We have provided Ofgem and consumer groups with an early draft of our high level views on the content of a Code of Practice and we are continuing to develop this into the next level of detail. We are also developing what governance arrangements might look like and the practicalities of planning for the implementation of a Code of Practice.

Q4 Do you agree with our proposed approach to ensuring that the IHD is not used to transmit unwelcome marketing messages?

The definition of what might be considered “unwelcome” will need to be considered carefully. As highlighted in the Prospectus, there will be customer benefits associated with a number of new opportunities, such as Time of Use tariffs and energy management services (and indeed the Impact Assessment relies on the implementation of some of these). We believe that existing regulations lay down what can and cannot be done in respect of marketing materials and these should be updated to reflect the smart metering environment (including IHDs). Existing regulations regarding the use of electronic mail for direct marketing are sufficient to ensure that only customers who give their consent will receive material.

Q5 Do you agree that consumers should be able to obtain consumption information free of charge at a useful level of detail and format? How could this be achieved in practice?

The ERA agrees that customers should be able to obtain consumption information at a useful level of detail and in the most appropriate format. We suggest that this information be made available via the HAN interface, which the Prospectus sets out as being available for customers to pair devices to.

Q6 Do you consider that existing protections in the licence are sufficient to ensure that consumers are not remotely switched to prepayment mode inappropriately?

The ERA believes that the existing licence conditions robustly and clearly detail when, where and under what circumstances a prepayment meter can and cannot be installed.

Q7 Could provision of an appropriate IHD help overcome meter accessibility issues to facilitate prepayment usage?

The provision of an IHD could assist meter accessibility issues for prepayment usage. Information such as meter balances and low credit warnings could be displayed on the IHD located in an appropriate and convenient place for the customer. It may be sensible to enable credit top up through the IHD as a differentiating service that could be provided to customers. However, there would need to be a balance between functionality and cost.



There is a need to mandate requirements for a basic IHD to deliver optimum Impact Assessment cost/benefits. There should be a set of minimum requirements defined for an IHD above which additional services and products can be facilitated by different Suppliers. We must promote innovation and differentiation. Enhanced PPM/PAYG options could be one example of additional functionality that would not be defined as standard within the IHD requirements. We have highlighted in our response to IHD Q6 some of the implications of customer control through the IHD.

Customers will need to have meter accessibility, for example in infrequent cases where there is a failure with the HAN, for credit top up or to re-enable supply at the meter if the supply has been previously disabled.

Q8 What notification should suppliers be required to provide before switching a customer to prepayment mode?

We note that it is your intention to consider how the current obligations on Suppliers apply in the context of smart metering where the Supplier is remotely switching a meter from credit to prepayment mode and we welcome the opportunity to assist you further with these considerations. We support your position presented in your recent letter regarding Interim Guidance for Remote Disconnection and Remote Switching to Prepayment.

Q9 Do you believe that suppliers should be required to provide emergency credit and 'friendly credit' periods to prepayment customers or whether, as now, this can be left to suppliers?

We believe that Suppliers will continue to offer emergency credit facilities to all prepayment customers under existing arrangements. Any legislation in this area should not limit innovation and product differentiation. The provision and level of emergency and friendly credit facilities to customers has the potential to be an area for differentiation between Suppliers that is likely to result in innovative products and services going forward.

Q10 Do you consider that an obligation similar to Prepayment Meter Infrastructure Provision (PPMIP) may be required?

We do not believe that an obligation similar to PPMIP will be required for PAYG smart metering. The existing prepayment infrastructure is cumbersome, costly and constrains how payments are managed in the industry. The key is to define the necessary open standard interfaces in the smart metering infrastructure to facilitate the end-to-end prepayment processes and we have published some development material in this area:

- SRSM Briefing on Payment Infrastructure (<http://www.energy-retail.org.uk/documents/MicrosoftWord-SRSMBriefingNotePaymentInfrastructurev1.pdf>)
- SRSM Smart Meter Payment Infrastructure Illustrations – (<http://www.energy->



retail.org.uk/documents/SRSMSmartMeterPaymentinfrastructureillustrationsDraft.pdf)

Prepayment arrangements should be made simpler and clearer, which should be facilitated by removing the dependency on tokens, keys or cards.

There is further work underway to look at the practicality of prepayment provision in a smart world and we will continue to provide input to the Expert Groups and Sub Groups to support this.

Q11 Is the obligation which Ofgem is proposing to introduce on suppliers to take all reasonable steps to check whether the customer is vulnerable ahead of disconnection sufficient? If not, what else is needed?

The ERA agrees that it is necessary for Suppliers to continue to take all reasonable steps to check whether a customer is vulnerable ahead of disablement. We support your position presented in your recent letter regarding Interim Guidance for Remote Disconnection and Remote Switching to Prepayment. The ERA's members continue to meet regularly under the ERA's Debt Policy Group to share and develop best practice in helping vulnerable customers and liaise with consumer groups such as Consumer Focus and the Citizens Advice Bureau.

Q12 What notification should suppliers be required to provide before disconnecting a customer?

We believe that Suppliers already have a number of clear obligations set out in their licences to offer protection to customers regarding debt and disablement. This licence obligation was strengthened as part of Ofgem's Supply Licence Review to ensure vulnerable customers have appropriate levels of protection. Smart metering will allow both Suppliers and customers to manage energy consumption more efficiently and customers will be billed for actual energy used. We believe the new technologies will empower customers to better manage their usage, will give them more choice over payment methods, give them greater control of what they use, when they use it and how much they pay for it. In combination, these benefits should contribute to reducing the number of customers building up arrears.

Q13 Do you have any views on the acceptability of new approaches to partial disconnection and how they might be used as an incentive to pay bills?

The ERA agrees that all options and approaches for incentives to encourage customers to pay their bills should be explored and we would welcome the opportunity to work closely with Ofgem and consumer groups in this regard. We do, however, have concerns that this approach simply won't be possible to implement or maintain given the existing housing stock in GB. We believe that schemes such as load limiting and trickle disconnection may be appropriate for future housing developments where a consumer unit could feed into the meter so that specific circuits could operate whilst others would



not. However, any such options need a careful assessment due to the level of complexity in this area.

Q14 Do you agree with our approach for addressing issues related to remote disconnection and switching to prepayment?

The ERA recognises the importance of ensuring that all pertinent information is gathered prior to making the difficult decision to disconnect a supply, and that all other options have been exhausted, and we welcome the opportunity to be engaged in further discussions in this regard.

Q15 Have we identified the full range of consumer protection issues associated with the capability to conduct remote disconnection or switching from credit to prepayment terms? If not, please identify any additional such issues.

We believe that the vast majority of consumer protection issues are already covered by existing legislations, but would welcome the opportunity to engage in future discussions of any additional consumer protection specific to smart metering.

Q16 What information, advice and support might be provided for vulnerable consumers (e.g. a dedicated help scheme)? Who should it be provided to?

There is the opportunity to consider any specific advice and support requirements as part of the Installation Code of Practice, which will be the subject of wide stakeholder consultation and collaborative development. We welcome the opportunity to discuss with all parties the detail of what information, advice and support might be provided for vulnerable consumers.

Q17 Do you have any comments on our proposals to prevent upfront charging for the basic model of smart meters and IHDs?

We support the proposal that an upfront metering charge should not be levied to customers when the smart metering system is installed. We share the view that charging customers in this way is likely to damage the consumers' perception of smart metering and may impact upon the wider rollout. We welcome Ofgem's recommendations that Suppliers recoup costs from all customers from the start of the rollout as this is in line with how Suppliers currently recover metering costs. We believe this method would be the fairest approach across the board and the least likely to generate resistance to installation.



6 REGULATORY & COMMERCIAL FRAMEWORK

Q1 Have we identified all of the key elements that you would expect to see as part of the Smart Metering Regulatory Regime?

The scope will have to be assessed as part of the ongoing development process. The scope of the Smart Energy Code will need to be clearly defined and the handshakes from the SEC to existing industry codes and practices need to be clearly understood. We believe that code management/administration should be distinct from the focused delivery of commercial services either under DCC or separately. We need to ensure that there is appropriate focus on each activity.

Q2 Do you agree with the proposal to establish a Smart Energy Code?

Yes, we support the need to establish the Smart Energy Code.

Q3 Do you have any comments on the indicative table of contents for the Smart Energy Code as set out in Appendix 3?

The proposed content for the Code is broadly aligned with our previous work on code requirements for smart. Commercial interoperability arrangements are a welcome addition and we also suggest technical assurance (accreditation for smart equipment) should be included. It will be important to distinguish between Code obligations for any interim arrangements or enduring arrangements. The scope of the Smart Energy Code will need to be clearly defined and the handshakes from the SEC to existing industry codes and practices need to be clearly understood.

Q4 Do you have any comments on the most appropriate governance arrangements for the Smart Energy Code?

Governance arrangements should be informed from findings from the Governance Review. Modification criteria to reflect some key objectives/principles to remain consistent as code evolves. The SEC will involve many parties – should be party specific areas of the code with party specific voting arrangements. Industry representation is key.

Q5 Do you agree with the proposals concerning the roles and obligations of suppliers in relation to the WAN communications module?

During the Expert Group work the preferred position was for WAN module ownership to be the responsibility of the DCC and that is supported by the ERA if a separate WAN module becomes part of the GB smart metering architecture. The need for a separate WAN module is not a unanimous position amongst all ERA members. More discussion is essential in relation to



the logistics of provision. We also agree with the view that the installation of WAN module should be carried out by the Suppliers on behalf of the DCC.

In terms of the logistics of WAN module provision, we believe there to be three possible options, namely:

1. DCC procures and provides to the Supplier;
2. DCC empowers someone to procure the module on its behalf; or
3. Some form of framework agreement to be in place.

Moreover, the potential for bulk upgrade or replacement of WAN modules should be considered further due to the significant impact it might have on workforce capacity. Another factor to consider within this is an option to use the WAN for other commercial services to customers, thus allowing the industry to reduce overall WAN costs by utilising its wider benefits - specifically who would control and maintain WAN utilisation should be discussed. It is important to ensure fairness.

There is not a unanimous position within the ERA on the responsibilities for maintenance of the WAN modules and we recommend this is discussed further through the Expert Groups to allow Ofgem/DECC to define clear policy on responsibilities.

Where the customer changes Supplier, there needs to be clarity on which party is responsible for ongoing WAN module maintenance. For example, if WAN module maintenance is a Supplier responsibility in cases of dual-fuel installations, there needs to be further consideration on which of the fuels the maintenance responsibility should be assigned to for future CoS events. Should this be left to the original Supplier or should there be rules/processes defined for this allocation? Industry would need to store registration details for a WAN module to show which party (e.g. gas Supplier or electricity Supplier) is allocated as the responsible party for maintenance of the WAN module if this is the agreed process that is adopted. If WAN module maintenance is a DCC responsibility, then this process is simplified.

Q6 We welcome views as to which other additional data items should be included in the mandated HAN data set beyond the list for the IHD.

We believe there is the need to understand what information is useful for customers and what data is required for Suppliers/industry. For example, if the WAN communications is down, should we be able to use the HAN as an alternative to deliver WAN functionality (e.g. from a locally connected device/Hand Held Unit)? Should the HAN be used for Hand Held Unit operations to support meter maintenance activities? Either of these uses would introduce HAN data that is over and above the IHD requirements.

The key is to define the service requirements for the overall smart metering infrastructure and then design the solution to deliver them. For example, if supporting microgeneration is a requirement, what data needs to be passed



through the HAN and WAN to support it? There needs to be an assessment of the practicality of providing accurate account balance data dynamically in the IHD. Any mandated HAN data set should have element of flexibility under smart energy code governance. We have provided a set of HAN Use Cases to support the Ofgem Expert Group discussions and to help to develop a view on the service requirements for the HAN.

Q7 Do you agree with the proposal that the WAN and the HAN in customer premises should be shared infrastructure, with the installing supplier retaining responsibility for ongoing maintenance? If not, would you prefer to have an arrangement by which if the gas supplier is the first to install, responsibilities for the common equipment is transferred to the electricity supplier when the electricity smart meter is installed?

The WAN/HAN needs to be a shared infrastructure, but more thought is needed in relation to ongoing maintenance responsibilities. The concept of “Lead Supplier” does change the existing “Supplier Hub” model and introduces a number of practical issues that might be avoided by other options (e.g. retaining the existing change of ownership principles of metering competition). These options need to be impact assessed as part of the Phase 1 development process with the Expert Groups. We need to avoid customer confusion.

In terms of maintenance of the HAN, it is our view that each ‘device owner’ (i.e. the Supplier is responsible for the HAN chip in the meter and will pay for the chip as part of the purchase of the meter) should retain maintenance responsibility for the chip in its equipment/device. However, some of the issues concerning this would need to be further considered. For instance, it is still unknown how a fault with the HAN could be diagnosed remotely, and there are some fundamental questions around the legality and ability of one Supplier’s agent being able to replace a HAN chip in a device he has no responsibility for (e.g. can an electricity metering agent replace a HAN chip in a gas meter?).

Q8 Are there additional measures that should be put in place to reduce the risks to the programme generated by early movers?

In our response on roll out we have outlined the risks that surround the early movers and emphasized that a risk based approach should be used for pre-DCC deployments. We do not think there are any additional measures that should be put in place to reduce risks by early movers.

The work of DCG SG2 on interim interoperability is of importance to ensure that evidence is gathered to allow analytical assessment of the options and for DECC/Ofgem to be informed in setting out their view setting policy for Interim Arrangements. We are pleased to be contributing and supporting the development work in DCG SG2.



It is important to include into discussions the arrangements around data transfer, particularly, transferring the data collected prior to DCC to post DCC solution. Suppliers would not support a mass migration of data at or close to go-live data due to the risks associated with this. Any significant data migration would need to be managed closely to ensure its robustness. It would be optimal to finalise data transfer from interim arrangements to enduring as quickly as possible in the most effective manner in sensible volumes in a managed and phased migration.

Q9 What is needed to help ensure commercial interoperability?

We welcome the recognition that measures are needed. It is essential that the programme and ROMA work together on developing measures. We will need to understand the scope of the DCC and any interim interoperability arrangements. However, even before these are known, it is clear that a standard approach to amortisation (or not) of meter installation charges and rental agreements would be a major step forward and it is essential that MAPs in gas are provided with full access to the data they need to perpetuate a return on their asset after a Change of Supplier event.

It is also our view that further clarity and decisions are needed around commercial interoperability for IHDs and this will need further consideration within the Expert Groups and Sub Groups. IHDs will have a shorter “useful” life and depreciation period than the meter and it is questionable whether the incoming Supplier will want to utilise the existing display. Increased risk and shorter lifetimes will influence whether IHDs would be subject to asset rental arrangements similar to those we see for meters now or might see for WAN Communications boxes if they were to be agreed as part of the architecture in the future. DECC/Ofgem policy for IHD rental arrangements (and whether they are required) needs to be clearly stated in the Prospectus response.

Q10 Can current arrangements for delivering technical assurance be developed to gain cost effective technical assurance for the smart metering system? If so, how would these procedures be developed and governed?

The ERA agrees that technical assurance is needed for all smart metering components and this has been defined by DCG SG2 as a precondition of interim arrangements as well as enduring arrangements. If in-service arrangements cannot be extended to cover these, then arrangements should be part of the scope for the Smart Energy Code. Any arrangements need to be considered for interim and enduring arrangements separately.

Q11 Are there any other regulatory and commercial issues that the programme should be addressing?

Smart metering presents a good opportunity to reduce operational complexity and the options for early introduction of registration and other functions into



DCC should be assessed. We still believe there's a need for fair and equitable financial mechanism to address stranding of legacy assets.

The commercial issues surrounding responsibility for non-standard smart metering installations (where meters may need relocating, or access to the meter has been obstructed by building renovation), and replacement of essential related equipment such as broken/sub-standard meter boxes, inadequate meter boards (including replacement and disposal of asbestos meter boards) also need to be addressed.

Whilst many of these may be the responsibility of the consumer (i.e. part of the fabric of the premises, or on the consumer's side of the meter) careful consideration is needed to ensure there is no negative impact on the overall implementation programme. The regulatory framework needs to ensure that network operators are able to take any necessary rectification action. The ERA is aware that it is Ofgem's intention to consider these issues as part of the Roll-Out workstream, and we look forward to contributing to this work as it progresses.

Additionally, the "must inspect" regime should be reviewed in order to realise the Impact Assessment benefit of £2.69bn assumed from fewer visits to the customer premises.

Q12 What evolution do you expect in the development of innovative time-of-use tariffs? Are there any barriers to their introduction that need to be addressed?

We believe that the development of TOU tariffs will be driven by the competitive market – consumers will have information to help make informed decisions to best suit their needs and Suppliers need to have the level of data granularity identified above to support the offering of ToU tariffs.

Q13 Are there changes to settlement arrangements in the electricity or gas sectors that are needed to realise the benefits of smart metering?

We do not believe there are any significant settlement arrangement changes needed at this stage to realise smart benefits. In our view the Smart Metering Programme would need to implement any such changes should they arise at a later stage, particularly, if an increase in the density of smart meters introduces risks or strain on the existing settlement arrangements.

Q14 What arrangements would need to be put in place to ensure that customers located on independent networks have access to the same benefits of smart metering as all other customers?

Care is needed to ensure that customers on iGT, iDNOs and nested networks should be treated similarly to those on Large Transporter networks to deliver the benefits to GB.



Q15 Are there any other industry processes that will be affected by smart metering and which the programme needs to take into account?

We expect that the Expert Group development work will inform this.

7 COMMUNICATIONS BUSINESS MODEL

Q1 Do you agree that access control to secure centrally-coordinated communications, translation services and scheduled data retrieval are essential as part of the initial scope of DCC?

The ERA generally agrees that these are essential parts of the scope of the DCC. It would be useful, however, to clearly define the scope of each of these services to ensure there is a full understanding of what this means for DCC and the industry as a whole. We believe this clarity is coming from the output of the DCG.

Q2 Do you agree that meter registration should be included within DCC's scope and, if so, when?

The timing of meter registration in DCC must be assessed robustly as part of the Expert Group developments and subject to a full impact assessment. This cannot be done in isolation by respondents – it must be a pan-industry assessment.

Q3 Should data processing, aggregation and storage be included in DCC's scope and, if so, when?

The timing must be assessed robustly as part of the Expert Group developments and subject to a full impact assessment. This cannot be done in isolation by respondents – it must be a pan-industry assessment.

Q4 Do any measures need to be put in place to facilitate rollout in the period before DCC service availability and the transition to provision of services by DCC, for example requiring DCC to take on communications contracts meeting certain pre-defined criteria?

Interim Arrangements will be subject to discussion in the DCG Expert Group and a cross-industry position should be assessed.

Q5 Do you agree that the licensable activity for DCC should cover procurement and management of contracts for the provision of central services for the communication and management of smart metering data?

Yes.



Q6 Do you consider that DCC should be an independent company from energy suppliers and/or other users of its services and, if so, how should this be defined?

Our response to the governance of DCC is covered in Prospectus Q11 above.

Q7 Do you have any comments on the steps DCC would need to take to be in a position to provide its services and the likely timescales involved?

We have previously provided a view on implementation planning and critical path to DECC/Ofgem. The currently proposed timeline of 6 months for DCC to go live from being appointed seems ambitious, and to re-assess this planning robustly, we need to have transparency in the end-to-end planning and rationale from the Ofgem SMIP.

Q8 Do you have any comments on the proposed approach to cost recovery and incentivisation for DCC?

We do not have any comments on this.

8 IN HOME DISPLAY

Q1 We welcome views on the level of accuracy which can be achieved and which customers would expect, in particular in relation to consumption in pounds and pence.

For accurate cumulative consumption – the ERA agrees if the accuracy levels mean “reasonably” accurate which is accurate as technically possible and financially reasonable under the circumstances at the time.

We agree with near real time account balance for Prepay customers because that information is likely to be managed at the metering system itself.

For credit customers, we are concerned with the technical challenges that might be involved with delivering a monthly account balance update because that information does not reside at the meter. The implications of displaying a credit account balance to customers is that this account balance will have to be dynamically calculated by the Supplier whenever it is required to be displayed – effectively a pseudo billing run every time. Supplier systems are just not designed in this way currently and this would be a significant change to Supplier systems in addition to the fundamental changes already being introduced to just operate the smart metering infrastructure. We are particularly concerned as to how useful this data might be to customers given the range of payment arrangements they may have. Please see Q6 below for more detail.

Additionally, the lack of dynamic update of Calorific Value to the meter and In Home Display will compromise the accuracy of gas billing data.



We should also be wary of building requirements that limit innovation. For example, future bundled propositions may include discounts applied through billing systems that cannot be shown on an IHD.

Q2 We welcome evidence on whether information on carbon dioxide emissions is a useful indicator in encouraging behaviour change, and if so, how it might be best represented to consumers.

The ERA agrees with Ofgem that there is no need to require CO₂ indicator on IHD as a minimum, though some Suppliers may choose to include it.

Q3 We welcome views on the issues with establishing the settings for ambient feedback.

We generally agree with this, however further discussion is need of the practicalities around this. Please see Q6 below for more detail.

Q4 Do you think that there is a case for a supply licence obligation around the need for appropriately designed IHDs to be provided to customers with special requirements, and/or for best practice to be identified and shared once suppliers start to roll out IHDs?

The ERA agrees with Ofgem that there is no need for a supply licence obligation around requirements for customers with special needs.

Q5 We welcome evidence on whether portability of IHDs has a significant impact on consumer behavioural change

The ERA has no research in this area.

Q6 Do you agree with the proposed minimum functional requirements for the IHD?

Overall we agree with the proposals. However we believe that the functional requirements require robust assessment for feasibility through the entire end-to-end metering system. A more detailed clarification is also needed to fully understand the IHD specifics, for instance, whether it is a “slave monitor” of output data to customers or a “remote control” providing customers with the opportunity to manage services (e.g. payment to meters) which might have very different cost and security implications.

Additionally, it is worthwhile to review in detail implications for large domestic gas users (with U16 meters) of the IHD ability to display the required information as there is no smart meter of this size and the low volumes may make them uneconomic to produce.

Below is our view in detail on each minimum functionality as proposed by Ofgem/DECC prospectus:



2.1 The IHD shall support mains power operation – *ERA agrees with this.*

2.2 The IHD shall show the following information for gas and electricity:

- a. Indicative real-time usage in kW – *Real-time as per prospectus is identified as 5s for electricity and 15 min for gas as below. We hope that the consensus on this could be achieved during the Expert Group discussions.*
- b. Indicative real-time rate of consumption in pence per hour – *It is our view that this should be further debated and considered in detail by the Expert Groups. We agree that this functionality should be valuable for the customers provided that they are aware the information is indicative, however there are risks associated with this that could undermine the benefits of the smart metering system due to the potential confusion and worry that this type of information could cause to the customers. This type of information could also create spikes in contacting call centres.*
- c. Accurate cumulative consumption in kWh and £ for current day/week/month/billing period; *ERA generally agrees with the accurate cumulative consumption information in kWh for current day/week/month/billing period.*

With regards to the remaining data requirement, namely, accurate cumulative consumption information in £ for current day/week/month and cumulative information in £ for billing period, it is our view that this information should be indicative or approximate as there is a technical challenge to be able to provide such information inclusive of all of the charges (e.g. standing charges, etc.) for credit customers - the level of accuracy in this case should mean “reasonably” accurate, which is accurate as technically possible and financially reasonable under the circumstances at the time. It is important to clarify whether the term “accurate” would relate to what is in the meter or on the billing system.

- d. Accurate account balance information (amount in credit or debit) in real time for prepayment customers and on at least a monthly basis for credit customers; - *ERA agrees with the accurate account balance information in real time for prepayment customers; however with regards to the accurate balance information on at least monthly basis, we are concerned about the technical challenges surrounding this process. Significant technology development would be needed in Suppliers’ systems to deliver this functionality which has a risk of compromising overall delivery of the smart programme. The role of the display should be to encourage customers to reduce their energy consumption. Providing billing and account information would not aid the customer to do this, and as the information would not*



tie up with the customer's actual bill this could lead to confusion. This information is better served through web services, because, for example for customers on direct debit their financial balance is not indicative of their consumption pattern or their true indebtedness.

- e. A high-level requirement that historical data should be presented in a meaningful way so as to allow a consumer to compare current usage with past usage; - *ERA agrees with this, however the comparison should be simple on the display and more detailed through other means such as Web Services.*
- f. Current tariff (i.e. cost per unit in pence per kWh); *ERA generally agrees.*
- g. Local time – *It is our view that this should be discussed further by the Expert groups to weight the benefits of this functionality.*
- h. Status of communication link - *ERA agrees with this.*

All information will be displayed in digital numerical format as a minimum. In addition, information on real-time energy rate (kilowatt) and cost of current level of consumption (pence per hour) will, as a minimum, be displayed in a visual (non numerical) way which allows a consumer to easily distinguish between low and high current consumption. – *ERA generally agrees. However, there are different views amongst the Suppliers on how this could be practically delivered therefore this should be further discussed within Expert Groups meetings.*

Minimum real time update for electricity is 5 seconds, for gas it is 15 minutes. *10s for electricity and 30 min for gas might be more appropriate considering current technology available; it is our view that this should be further considered by the Expert Groups.*

- 2.3 The average IHD power consumption shall be less than 0.6W - *ERA agrees.*

It is our opinion that an ability of alphanumeric messaging to display such basic messages as: Your balance is low (in case of prepayment mode), for instance, could be included within the minimum functional requirements for the IHD. We believe it would add significant value to the customers and would not add significant cost.

Additionally, the currently estimated cost for an IHD of £15 should be reassessed in light of the minimum requirements for an IHD.

Q7 Do you have any views or evidence relating to whether innovation could be hampered by requiring all displays to be capable of displaying the minimum information set for both fuels?

The ERA has no evidence that setting the minimum information requirements for IHDs would hamper innovation.



Q8 Do you agree with the proposals covering the roles of and obligations on suppliers in relation to the IHD?

In general we are satisfied with the arrangements proposed by the Prospectus, but we have heightened in our response to Q8 in the Prospectus that it is our view that responsibilities for IHD provision and maintenance should continue under discussion at the Expert Groups and Sub Groups. DECC/Ofgem need to clearly state who will have responsibility for IHD provision and maintenance in their Prospectus response and particularly what happens to responsibilities at a Change of Supplier event.

Also, where IHD damage was caused by consumer action, Suppliers should not be responsible for this.

To ease the process for customers a clear label could be placed on the back of an IHD indicating who is responsible for the IHD, thus clarifying who the customer should contact.

Additionally, it would be worthwhile to reassess the estimation of £15 for display cost in light of the minimum information requirements as similar displays are estimated to start at around £25 in Australian analysis.

9 NON DOMESTIC SECTOR

Q1 Are there any technical circumstances where only advanced rather than smart metering would be technically feasible? How many smaller non-domestic customers have U16 or CT meters and what scope is there for full smart meter functionality to be added in these cases?

There are likely to be cases, due to the nature of some non-domestic installations, where technical issues may arise and where a smart solution will not be able to be installed. Such technical and commercial challenges will need to be assessed and addressed on a case by case basis.

There may be no economic solution for U16+ meters and economics (there is only a small number of these meters installed) may mean that this is likely to be the case in longer term.

Q2 Do you agree with our proposed approach to exceptions in the smaller non-domestic sector?

Yes. We agree that a Supplier should take all reasonable steps to ensure that all smaller non-domestic customers have smart meters installed and where this is not possible an appropriate advanced metering solution is installed.



Q3 Are there technical circumstances that we have not considered that would justify further flexibility around installation of either smart or advanced meters?

The ERA does not have a view on this.

Q4 Do you agree with the proposed approach that use of DCC should be optional for non-domestic participants in the sector?

Ideally, all participants would use the DCC to maintain interoperability. We do not want separate arrangements as these will be costly to support for small numbers of customers due to multiple systems that would need to be supported. If the scope of the DCC includes meter registration, there is the potential for different switching processes in shorter timescales. Such a variety might result in poorer service for customers outside DCC and compromise future smart grid activity.

In the event that a decision is made not to mandate the use of the DCC, we support the view that the decision should be reviewed in the future if it is evident that there are serious interoperability issues.

Q5 If use of DCC is not mandated for non-domestic customers, do you agree with the proposed approach as to how it offers its services and the controls around such offers?

Yes.

Q6 To what extent does our proposed approach to the use of DCC for non-domestic customers present any significant potential limitations for smart grids?

As mentioned in Q4 above, in our opinion enduring separate arrangements for non-domestic and domestic customers with regards to DCC might result in higher costs and more complicated processes to support such an arrangement.

Q7 Is a specific licence condition required to ensure that metering data for non-domestic customers can be provided to network operators or DCC, and should any provision be made for charging network operators for the costs of delivering such data?

Data required to support service requirements for industry should be provided from any bespoke non-domestic communications provider in the same way that the DCC will provide data. Those choosing to opt out of DCC usage could still be mandated to provide data to the DCC in order to reduce the number of interfaces each Supplier and DNO would need to create and manage, thereby reducing overall costs to industry.



Q8 How can interoperability best be secured in the smaller non-domestic sector?

The ERA believes that interoperability can be best secured in the smaller non-domestic sector as per Q4 above.

Longer-term, it may be appropriate to mandate the use of DCC as this would provide a full industry-wide interoperability solution, when the majority of sites have smart installed. This may also support future smart grid functions.

Q9 What steps are needed to ensure that customers can access their data, and should the level of data provision and the means through which it is provided to individual customers or premises be a matter for contract between the customer and the supplier or should minimum requirements be put in place?

The ERA has no comment on this question.

Q10 Do you agree with our approach to data privacy and security for non-domestic customers?

The ERA has no comment on this question, other than it is important that any other communication methods that are utilised, other than the DCC, should have at least equivalent arrangements in place.

Q11 Is the proposed approach to rollout (for example in terms of targets and a requirement for an installation code of practice) appropriate for the non-domestic sector?

The ERA has no comment on this question.



Appendix A – Smart Metering Data Privacy Consideration



October 2010	SRSB & Beyond Project
Briefing Note	Availability and uses of smart metering data – Opt in or Opt out
Version: 0.2	Jason Stevens, Engage Consulting, SRSB Project Team

INTRODUCTION

The Data Privacy and Security supporting document from the Ofgem/DECC Smart Metering Prospectus proposes that the consumer should choose in which way consumption data from smart meters shall be used and by whom, with the exception of data required to fulfill regulated duties.

This briefing note confirms the areas of consensus between ERA members for options relating to the accessibility of data and also highlights areas where further issues need to be considered in order to arrive at a consensus position.

PRINCIPLES OF THE DATA PROTECTION ACT 1998

There is already a legal requirement upon Suppliers to demonstrate that the uses for customer data are legitimate, and that appropriate protections for consumers' rights are in place. There is a well established approach as set out in the Data Protection Act 1998 (DPA 1998); Schedule 2, Part II, Paragraph 2, which *provides that where data is collected from a data subject (the consumer), that information is not to be regarded as being processed fairly unless the data controllers (the Supplier) ensures so far as practicable that a privacy notice is provided or made readily available to them.*

This requirement is met today by Suppliers as part of the terms and conditions of supply between the Supplier and consumer. Whilst the level of data available from smart meters will increase significantly from today's world, the general principles contained within the DPA 1998 still apply equally. There is a



consensus view that the current obligations under the DPA 1998 offer sufficient transparency and protection in relation to how and why Suppliers will use data from smart meters, if there is an appropriate privacy notice included within Suppliers terms and conditions of supply with consumers as is current standard practice.

OPT-IN VERSUS OPT-OUT

The Prospectus recognises that requiring consumers to provide “opt-in” consent may lead to a limited number of consumers allowing access to data, which in turn could undermine the benefits of smart meters. It also acknowledges that an “opt-out” regime would ensure wider availability of data, but could also raise issues around ensuring informed consent and questions as to whether or not such a regime will provide adequate consumer protection.

Suppliers have significant experience of operating within the obligations under the DPA 1998 as described above. The proposed approach of consumers providing “opt-in” consent in order to limit unwelcome or unnecessary privacy intrusion appears to indicate that Suppliers and other industry parties do not take their responsibilities under the DPA 1998 seriously, or that the obligations under the DPA 1998 are insufficient for a smart metering world. There is a consensus view of the ERA members that the current obligations are wholly appropriate, and that industry parties will continue to comply with those obligations following the roll-out of smart meters.

In relation to which of the “opt-in or “opt-out” regimes is more appropriate for smart meters, there is a consensus view that either regime is likely to limit the ability to deliver the full benefits of smart meters, and that there are already sufficient protections in place to ensure that consumers’ data will not be used for purposes that are deemed unnecessary.

In terms of using the data from smart meters for marketing purposes, Suppliers already operate consent processes that give consumers the opportunity to “opt-out” of receiving details of the Suppliers’ other products and services. Therefore, regardless of the amount or level of detail a Supplier has about a particular consumers’ energy consumption, if the consumer has “opted-out” of receiving marketing information, the Supplier is unable to offer new products or services based on that information.

There is a consensus view that the current consent processes operated by Suppliers for marketing purposes are sufficient to protect consumers from any unwelcome privacy intrusion that may be associated with marketing activity as a result of Suppliers having an increased level of data from smart meters.



SUMMARY

The ERA acknowledges the intent within the Prospectus that consumers “should choose in which way consumption data shall be used and by whom, with the exception of data required to fulfill regulated duties”. However, given that there is statutory legislation that fully protects consumers, we are wary of introducing barriers to providing the benefits of smart meters as identified in the Impact Assessment, even with the best of intentions.

There is a consensus view that any consent process is unnecessary. Not only would any process be difficult to administer both at a Supplier level, and within central industry functions such as the DCC, it would introduce significant costs to the programme that have not been accounted for either in the smart metering Impact Assessment, or in Suppliers’ own individual business cases. Without doubt, any process that requires consent will severely limit the ability to deliver the benefits of smart metering.

It is the ERA’s view that those parties with a direct relationship with consumers, such as Suppliers, should be able to access consumption information subject to clear and transparent contractual arrangements with consumers, provided that these arrangements comply with the existing requirements and principles of the Data Protection Act 1998.