



Maxine Frerk
Smart Metering Implementation
Programme

*Promoting choice and value for
all gas and electricity customers*

Email: philip.cullum@ofgem.gov.uk

Date: 30th November 2011

Dear Maxine,

Ofgem's response to DECC's consultation on draft licence conditions for a code of practice for the installation of smart electricity and gas meters

We welcome the opportunity to respond to DECC's consultation on draft licence conditions for a code of practice for the installation of smart electricity and gas meters.

As the gas and electricity market regulator, our principal objective is to protect the interests of existing and future gas and electricity consumers. Wherever appropriate, we must do so by promoting effective competition. In carrying out our functions we must also have regard to, among other things, the interests of vulnerable consumers, including those who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.

As you know, Ofgem E-Serve managed the policy design phase of the Smart Metering Implementation Programme on behalf of DECC. This concluded with the publication of the Government's Response in March 2011. In our view, the Response set out a robust high-level policy design for the smart meter roll-out, consistent with protecting the interests of consumers.

We recognise the Government's decision to task industry with responsibility for drafting the code, in consultation with interested parties including consumer groups. Once drafting is finalised, the Authority will be responsible for approving the completed code in line with the requirements set out in the finalised licence conditions. The Authority will also be responsible for approving proposed modifications to the code once it is in place. While suppliers will need to have their own monitoring arrangements in place, Ofgem will also be responsible for assessing suppliers' compliance with the code. We will continue to engage proactively with DECC, industry, consumer groups and other interested parties in the coming months to assist in the development of suitable code arrangements.

This consultation represents a positive step towards the implementation of licence conditions to underpin installation code of practice arrangements. We set out below several key principles that we believe will remain important to the continuing development of installation code arrangements. We also highlight areas where we believe particular focus is needed in the coming months to ensure that the final code arrangements are fit for purpose.

Consumers at the heart of the code

The interests of consumers must continue to play a central role in the development of the Programme as a whole. The installation visit will provide a unique opportunity for consumers to access the benefits offered by engaging with their smart meter and, for domestic consumers, the In-Home Display. The code should help to facilitate this

engagement, while also ensuring that consumers, particularly vulnerable consumers, are fully protected. We strongly believe that keeping consumer interests at the heart of the code design process remains crucial to the development of suitable code arrangements.

Commercial activity during the installation visit

Effective customer safeguards and competition are crucial in helping to increase consumer engagement, enabling consumers to realise the full benefits of a competitive energy market. The installation visit will present a unique opportunity to engage consumers - but there is a need to strike a balance with ensuring that effective consumer safeguards are in place, particularly for vulnerable consumers.

Rules around sales and face-to-face marketing activities during the installation visit should be designed to ensure that consumers have a positive experience of the installation process; are protected from mis-selling; and are empowered to access the benefits offered by smart metering. Retaining consumer confidence in the installation process will help suppliers achieve the high access rates that are essential if consumers and industry are to make the most of the benefits offered by smart metering. It would be undermining and damaging if the smart metering installation visit became a vehicle for the types of undesirable sales practices we have previously seen in some door-step selling.

With this in mind, we support the principle that robust restrictions should be placed on sales and face-to-face marketing activity during the installation visit.

Requiring prior consent from consumers before any sales or face-to-face marketing can take place during the installation visit will provide a degree of protection for consumers. There may, however, be other mechanisms that can provide the necessary consumer protection without requiring written consent.

In Ofgem's view, any mechanism for obtaining consent from consumers for sales and face-to-face marketing should meet a number of objectives. These objectives are the same whether that consent is gained in written form or otherwise. These include ensuring that:

- No sales or face-to-face marketing may take place unless the consumer has made a positive decision to receive sales or face-to-face marketing;
- Customers understand in advance that they have no obligation to receive sales or face-to-face marketing during the installation visit;
- Customers can make genuinely informed choices about whether to receive sales or face-to-face marketing, including receiving all relevant information and sufficient time to make such a choice;
- Customers are not pressurised into receiving sales or face-to-face marketing at any time;
- Suppliers maintain a clear, auditable trail of any mechanism they use to seek permission from a customer to engage in sales or face-to-face marketing and;
- The potential impacts on effective competition are fully considered when evaluating different mechanisms.

A mechanism for obtaining consumers' consent that meets these objectives could be expected to provide suitable consumer protection. We look forward to engaging with DECC further in this area.

The ERA draft code

We welcome the progress made to date by the ERA in developing a draft installation code. We also recognise the intent of the big six energy suppliers to begin applying a number of

the principles set out in the current draft code on a voluntary basis before the end of the year. This early, voluntary action should provide a testing ground for those suppliers who seek to roll out meters with advanced functionality in the coming months. It should act as one useful channel for identifying areas where the draft code requires improvement.

We recognise that there is a need for significant development in some areas. For example, significant work is needed to establish effective governance arrangements that build on the minimum requirements set out in the draft licence conditions. Effective and robust governance arrangements for the installation code are important, since they will help ensure that proposed modifications to the code are efficiently managed and that all parties, including consumer groups and small suppliers, can engage in this process.

At this stage, we believe that further progress on the development of complete code arrangements can be best achieved by the ERA continuing to develop code drafting in close consultation with all interested parties. We strongly believe that this approach to code drafting, alongside keeping consumer interests at the heart of the code design process, remains crucial to the ongoing development of suitable arrangements.

Protecting and engaging micro-business consumers

Many of the protections and engagement measures that are needed for domestic customers around the installation visit will be equally important for micro-business customers. Strong protections and engagement measures around the installation visit will be crucial in maintaining confidence in the Programme and enabling consumers to make the most of the benefits that can be gained from positive engagement during the installation process.

The March Response described how developing a single code covering both the domestic and smaller non-domestic sectors would provide for broad consistency of arrangements across sectors and avoid the need to duplicate governance and monitoring arrangements. The Response also described how developing a single code would still allow different requirements to apply in the smaller non-domestic sector where appropriate, for example around minimising business interruptions.

The ERA's draft code is designed to cover both domestic and micro-business customers. We understand that ICOSS is currently undertaking work to consider whether the current approach to code design will, in their view, be suitable for customers outside of the domestic sector. While we recognise that this work may add value, we remain mindful of the conclusions reached by the Government in the March Response around the clear benefits of having a single code.

Our primary concern at this stage is to see the development of code arrangements for micro-business customers keep pace with the development of arrangements for domestic customers. We therefore urge the Programme, the ERA, ICOSS and other interested parties to build the momentum needed to develop a code which incorporates suitable arrangements for both domestic and micro-business customers.

Related developments

We are conscious of the need to position installation code arrangements within the broader context of other Programme activities and industry work. For example, we recognise the important role that existing industry mechanisms such as the Meter Asset Manager's Code of Practice (MAMCoP) and the Meter Operation Code of Practice Agreement (MOCOPA) will play alongside installation code arrangements in the ongoing management of metering activities. It is important that these other activities evolve to effectively support and complement installation code arrangements.

Related Ofgem activities

We are already taking steps to help ensure consumers remain protected before the new regulatory framework relating to smart meters is in place. Our Smart Metering Consumer Protections Package includes measures to protect consumers, particularly vulnerable consumers, where remote functionality is used to switch a customer to prepayment mode or for disconnection¹. These measures took effect on 1st October 2011. We have separately consulted on measures to facilitate the change of supplier process for domestic customers who are currently receiving meters with advanced functionality². In addition, we are considering how to ensure a smooth run-down of traditional metering, for example through our Review of Metering Arrangements (ROMA)³.

Future developments that build on a successful smart meter roll-out have the potential to benefit consumers and industry more widely. We are therefore developing a strategy for market development consequent to the roll-out, which will help unlock further value for consumers. In addition, DECC and Ofgem recently established the Smart Grids Forum to focus on future electricity network development. Strong engagement between the Programme and the Forum will help to ensure coherence between the smart meter roll-out and the development of electricity network policy. We will continue to seek views from consumers to inform our work in these (and all other) areas.

We welcome your constructive engagement with us and other stakeholders thus far, and look forward to further discussions in the coming months. If you have any questions about this response in the meantime, please contact Jonathan Blagrove jonathan.blagrove@ofgem.gov.uk.

Yours sincerely



Philip Cullum
Partner, Consumer Policy and Demand Insight

¹ *Smart Metering Consumer Protections Package*, Ofgem, September 2011

<http://www.ofgem.gov.uk/Sustainability/SocAction/Publications/Documents1/Modification%20Direction.pdf>

² *Commercial interoperability: proposals in respect of managing domestic customer switching where meters with advanced functionality are installed*, Ofgem, August 2011

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=1&refer=Markets/sm/metering/sm>

³ *Review of Metering Arrangements*, Ofgem, December 2010

<http://www.ofgem.gov.uk/Markets/sm/metering/tftm/roma/Pages/roma.aspx>