



Craig Belsham
Department for Business, Innovation and
Skills
1 Victoria Street
London
SW1H 0ET

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

Email: philip.cullum@ofgem.gov.uk

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Dear Craig,

Ofgem's response to BIS's consultation on legislating to give consumers access to data in an electronic, machine readable form

We welcome the opportunity to respond to BIS's consultation on legislating to give consumers access to data in an electronic, machine readable form.

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.

We support the midata project and its core objectives. midata will provide consumers with data in a form that can be easily accessed, transferred and analysed to build a picture of their personal purchasing decisions and consumption behaviour. Having an accurate picture of their own purchasing decisions and consumption behaviour will help consumers to make better informed choices and extract the best value for their money when making these choices.

Providing consumers with easy access to their consumption and transaction information has clear benefits for consumers engaging in the energy market. They will be better placed to make price comparisons and generate switching options when considering energy tariff choices. The availability of personal consumption and transaction data in an electronic, machine readable form will also facilitate competition in existing markets and the development of new markets. It will enable third parties to offer services to energy consumers that may not otherwise be developed.

We recognise the benefit of creating an order-making power that, if utilised, would compel suppliers to provide to their customers, upon request, consumption data in an electronic, machine readable form. We set out below our main observations on

the proposal to create this power, and comment on relevant interactions between midata and Ofgem's work.

Interactions between midata and Ofgem's work

Ofgem has already introduced supply licence conditions requiring energy suppliers to provide their customers with information about their energy consumption patterns on bills and the Annual Energy Statement. Having this information should make it easier for consumers to assess their own consumption patterns and make better informed choices when considering energy tariff options.

There is also a link between midata and our Retail Market Review (RMR) proposals. Research has shown that customers find the number of tariffs in the energy market in itself contributing to customer confusion and disengagement. To overcome both these issues, in our RMR we are considering a package of reforms including information remedies in conjunction with other measures, to facilitate more effective engagement for all consumers.

midata also has clear links to the introduction of smart metering. The mass roll-out of smart meters will signal a step-change in the level of data available to consumers. This data has a commercial value - and we are supportive of initiatives that will allow consumers to unlock this value for themselves.

Ofgem is engaging with DECC's Smart Metering Implementation Programme on the development of the data access and privacy framework for smart metering data. In our engagement with DECC, we have emphasised the importance of placing customer choice and control at the heart of the data access and privacy framework. We have also emphasised the importance of facilitating innovation and competition in the emerging energy services market. This reflects our support for the principles underpinning midata. In addition, we have emphasised the importance of designing a data access and privacy framework that is flexible and responsive to change, for example to ensure alignment with any future regulations underpinning midata.

midata in the energy sector

We are pleased to note that energy suppliers are leading the way where midata is concerned. A number of energy suppliers are now voluntarily releasing 12-24 months of personal consumption data to their customers' in a standard electronic format. This voluntary action is already providing some consumers engaging in the energy market with greater choice and control over their purchasing decisions. In this context the introduction of an order-making power may be less relevant to the energy sector.

However, we recognise that the potential introduction of an order-making power should act to spur all energy suppliers towards fully implementing the objectives of the midata initiative. The new power could be utilised as an additional 'regulatory tool' in future should regulatory intervention be needed.

We are conscious that suppliers of different sizes, operating different business models, will face different challenges when implementing midata requirements. The positioning of different suppliers would need to be considered when utilising an order-making power to ensure that all suppliers are able to implement midata requirements effectively.

Maximising consumer uptake

Consumers will need to be able to access their consumption and transaction data quickly and easily. Routes for data access will need to be economic. Privacy and security will also be key. A framework with these principles at its core will help to increase customer uptake; maintain consumer confidence; and in turn maximise the effectiveness of the midata project.

We note BIS's preference to see consumption and transaction information in electronic form provided free of charge as part of midata. We also note and agree with the view that the cost of providing this information in electronic form is likely to be low.

We would be concerned were energy suppliers enabled to charge consumers for providing their consumption and transaction data to them in an electronic, machine readable form. The levying of such a charge on customers would seem difficult to justify and is likely to act as a significant barrier to consumer uptake.

The needs of specific customer groups

midata has the potential to be beneficial for many consumers. For those consumers who are less technologically aware, midata may still be of value. However we recognise that some consumers, particularly those without access to a computer or remote device, are likely to find it more challenging to engage with midata.

For all consumers engaging with the energy market, existing regulatory tools will remain important. We recognise that a significant number of customers want information from their energy supplier provided to them in a non-electronic form. This is particularly the case for those consumers who are less technologically aware and especially for those without access to a computer or remote device.

The role of third parties

We recognise the important role that third parties can play in the energy market going forward. Third parties providing consumers with services based on information made available by midata will help drive the development of a competitive market and increase consumer choice. A requirement for data to be provided in a common, electronic format free of charge should help facilitate the development of new products and services. We can also see potential benefits in permitting third parties authorised by consumers to access data directly from suppliers.

However, we are also conscious of the need to ensure that third parties acting in the energy industry are subject to appropriate oversight and that consumers are sufficiently protected when dealing with them. Consumers will need to be assured that any data they pass to third parties will be kept secure; will not be passed onto other parties without their consent; and will not be mis-used. As we take on responsibility for the Confidence Code¹ in 2013, we will consider how the code should interact with any midata requirements. We also welcome the government's

¹ The Confidence Code is a voluntary Code of Practice that a number of third parties involved in the energy supplier switching process are signed up to. The code is designed to help make the switching process easier and more reliable and to provide reassurance to consumers.

work to develop Information Sharing Agreements to help safeguard consumers' where they choose to share their data with a third party.

Enforcement

It may be appropriate for sector regulators, including Ofgem, to play an enforcement role of some kind post the utilisation of any order-making power. Any such role would clearly need to align with Ofgem's statutory duties and existing enforcement practices. We consider that it is unlikely to be appropriate for Ofgem to have a role in resolving individual customer disputes in relation to access to midata information, but that instead Ofgem would act in the interests of consumers as a whole. The practicalities of any such role would be something we would welcome further discussions with you on.

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