



Making a positive difference
for energy consumers

Richard Leyland
Smart Metering Implementation Programme
Department of Energy and Climate Change

29 November 2013

Dear Richard,

Ofgem's response to DECC's consultation on New Smart Energy Code Content (Stage 2)

We welcome the opportunity to respond to DECC's consultation on the second stage of the Smart Energy Code (SEC)¹ and accompanying draft legal text. Ofgem regulates the gas and electricity markets in Great Britain. We have an important role in ensuring that the interests of consumers remain protected, both during the transition to smart metering and in the enduring framework. We also play a key role in monitoring and, where appropriate, enforcing compliance with any new regulatory obligations relating to smart meters. This regulatory role will include making decisions on whether to approve certain modifications to the SEC².

We recognise that DECC has made significant progress since its first consultation on the SEC in April 2012³ and is working to a very challenging timetable. We also welcome the constructive engagement we have had to date and recognise the challenge DECC has in balancing the views of such a diverse range of stakeholders.

We set out below our response to some of the key issues in DECC's publication.

Special Administration Regime

We welcome DECC's reaffirmation of its commitment to bring forward legislation for a Special Administration Regime for the Data and Communications Company (DCC). This regime would introduce arrangements to deal with the event that the DCC entered into administration, or where there were significant failings in the operation of its licensed business.

We believe that, although this event is unlikely, if not appropriately managed, it could have a significant negative impact on energy consumers. We therefore encourage the government to prioritise developing the policy and consequent legislation in this area, so that a Special Administration Regime for DCC is put in place as soon as practical.

¹ The SEC will be a new industry code setting out the detailed provisions governing the relationship between the Data and Communications Company (DCC) and its users, and other issues related to smart metering.

² Path 3 Modifications (Self Governance) and Fast Track Modifications do not come to the Authority for decision and the Change Board and the Panel, respectively, determine whether it should be approved.

³ <https://www.gov.uk/government/consultations/stage-1-of-the-smart-energy-code>

Communications Hubs Financing

We recognise that the Communications Hubs (Comms Hubs) financing arrangements proposed by DECC have the potential to achieve significant costs savings for consumers and these arrangements may set an important precedent for future tranches. It is therefore important to ensure that additional risk and complexity is not built into the chain, as the arrangements are implemented, and that the balance of risks and rewards between parties is appropriate and fair.

In particular, the requirement for the 'three month float' will need careful management by DCC. DCC must have appropriate control of the arrangements to ensure that any interest payments accrued on balances is returned to SEC Users. This could be a significant sum over the lifetime of the communications contracts so it is important that there are appropriate safeguards.

DCC will have a role in ensuring that the arrangements continue to be economic and efficient compared to other options, and Ofgem will scrutinise DCC's ongoing approach to Comms Hubs financing as part of our ex post review of costs.

DECC proposes that Ofgem would be best placed to determine whether DCC had been unable or unwilling to fulfil its role in the accelerated repayment event. We encourage DECC to explore other options which, as noted in the consultation document, could be available to govern this process. A clear set of objective criteria triggering the acceleration event would provide greater certainty to all parties that have a stake in these arrangements. An Ofgem decision on the matter makes the commercial arrangements between parties more complex and less clear.

In the event that, following this consultation, DECC was still of the view that Ofgem is indeed best placed to undertake this role, we encourage DECC to ensure that the Authority has the appropriate vires to fulfil this role. This could be achieved through modifications to the Smart Meter Communication licence (the DCC's licence).

Communications Hubs Charging

We welcome DECC's efforts to maintain an appropriate balance between minimising complexity in the Comms Hubs charging arrangements and ensuring costs are allocated in a cost reflective manner.

HAN Variant Charge

DECC have indicated that Comms Hubs with a HAN Variant (HAN solutions other than 2.4 GHz) are likely to be slightly more expensive. Where there are two meters at a property and separate energy suppliers, there is a need to ensure that the first installing supplier installs the most appropriate HAN Variant Comms Hub for both meters. DECC considered whether there was a need to incentivise suppliers to do this. However, as the price differential is expected to be small, DECC concluded that sufficient natural incentives already exist⁴.

We acknowledge DECC's rationale that, given the expected small price differential, the existing natural incentives may encourage the right behaviour. We also recognise that the alternative of providing a rebate of any differential costs to the Comms Hubs installer in a split fuel household may be burdensome. However, we encourage the industry to keep the

⁴ Examples of these natural incentives include: the fact that all suppliers will pay the outstanding charges on no fault removals of the Comms Hubs in split fuel premises; minimising the negative impact on the consumer installation experience.

situation under review as the roll-out progresses and more information on costs and suppliers' behaviour becomes available.

Early Technology Refresh

We acknowledge that there may be a need for a system wide replacement of Communications Hubs before the end of their asset life. We welcome DECC's proposals that in this case the Communication Service Provider should undertake a cost benefit analysis in relation to this decision and should be responsible for covering site visit costs. However, it is important that this cost benefit analysis takes into account not only the DCC costs but also the wider costs and benefits to Users and consumers.

We look forward to continuing our engagement with DECC on the following stages of the SEC. If you would like to discuss this response, please contact Philippa Pickford, philippa.pickford@ofgem.gov.uk, or Dora Ianora, dora.ianora@ofgem.gov.uk.

Yours sincerely

Maxine Frerk
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