

# Consultation on extending the existing smart meter framework for data access and privacy to Smart-Type Meters and Advanced Meters: A Response from Energy UK

## About Energy UK

Energy UK is the trade association for the energy industry. Energy UK has over 80 companies as members that together cover the broad range of energy providers and suppliers and include companies of all sizes working in all forms of gas and electricity supply and energy networks. Energy UK members generate more than 90% of UK electricity, provide light and heat to some 26 million homes and last year invested £10billion in the British economy.

## Background of Energy UK and its members' work to date

Energy UK and its members recognise the importance of the need to protect consumers' energy consumption data as part of the introduction of smart meters, and have been at the forefront of the industry discussions that resulted in new Gas and Electricity Supply Licence Obligations coming in to force on 30<sup>th</sup> June 2013.

Prior to these new obligations being formalised, Energy UK's members agreed a set of Privacy Commitments setting out what energy suppliers would do to protect energy consumption data collected from smart-type meters, along with information that would be provided to consumers, and what choices consumers would be given in terms of the level of data their energy supplier would collect. These Privacy Commitments remained in place until the new Supply Licence Obligations came into force, and the principles of those commitments remain in place for consumers that continue to have smart-type meters installed within their homes.

## Response to this consultation

In summary, Energy UK's members broadly support:

- The principle of standardised consumer protection measures for all consumers, but some of our members have serious concerns stemming from the impact of retrospective application; and
- Applying the obligation to seek opt-in consent from customers with smart or smart-type meters (regardless of when the smart/smart-type meter was/is installed) to use any consumption data from all smart or smart-type meters for marketing purposes.

## Extending the obligations for all domestic customers with smart-type meters

Overall, Energy UK's members broadly support Ofgem's proposals to extend suppliers' obligations to domestic customers with smart-type meters, with many of them supporting the application of any extended obligations to those smart-type meters installed from the point that the revised Licence conditions come in to force. Others support the obligations applying regardless of when the smart-type meter was installed.

Regulation that effectively applies retrospectively is not something that many of our members can support without strong evidence of the need for it. Energy UK's members are not aware of any evidence (in terms of customer complaints regarding the level or volume of

data that suppliers have been collecting and using from smart-type meters installed to date) that suggests consumer protection over and above that within the Data Protection Act 1998 (the DPA 1998) is required for customers with smart-type meters already installed.

All our members have been applying the requirements as set out in the Energy UK Privacy Commitments since January 2012, and continue to remind their customers of the level of data being collected from smart-type meters, and that customers can change their mind at any time. Whilst the Privacy Commitments remain a voluntary set of protections for consumers, they remain consistent with the requirements of the DPA 1998, and there is no reason to suggest that suppliers would not continue to deliver against them for smart-type meters previously installed.

If Ofgem is minded to introduce the regulation in such a way that it applies without regard to when a meter was installed, then it should note that certain smart-type meters cannot be remotely reconfigured to meet the changing requirements. For example, it is our understanding that some smart-type meters are programmed to only provide HH data, so a site-visit will be required to reconfigure meters impacted by the change in obligations. Where the customer has not consented to HH data collection those suppliers impacted may need to decommission meters to satisfy the proposed obligations, resulting in a complete loss of smart services for these customers.

Energy UK's members also believe that more flexibility will be required in relation to the timescales in which suppliers might contact their customers, to notify them of their rights and choices. With fairly substantial numbers of customers likely to be impacted by the requirement, suppliers should be spared from having to send out large numbers of communications in a short timeframe, as this could prove problematic in terms of managing incoming customer queries. Suppliers are therefore, likely to want to stagger the timing of such customer communications in order to maintain satisfactory levels of customer service.

Suppliers will also want to ensure that such customer communications do not interfere with other ongoing smart or general consumer engagement activity they might have in place, and any communications exercise will need to be planned before suppliers will be in a position to deliver it. It may also be advisable to consider whether or not key messages need to be coordinated with the Central Delivery Body in order to ensure there is consistent messaging on this subject.

Although Energy UK's members recognise the importance of achieving symmetry in these consumer protections as soon as is practicable, they also note that no evidence has been presented, in terms of customer complaints, to support the need for suppliers to meet the extended obligations in very short timescales. Therefore, given the additional factors highlighted above and provided that our 'last resort' proposals are accepted, we believe that a grace period of at least 12 months would offer a reasonable compromise.

All of Energy UK's members agree with Ofgem's proposed requirement to seek opt-in consent from customers to use any data from smart meters for marketing purposes. There is clear evidence from a variety of consumer research that confirms this is the biggest concern when it comes to data collected from smart (or smart-type) meters, and it is therefore sensible to provide this protection for all customers, regardless of when the smart (or smart-type) meter is/was installed.

**More thought is required for proposed definitions**

Ofgem should give further consideration to the proposed changes to the definitions that will apply to any revised Supply Licence Conditions. There are a number of areas where a 'broad-brush' approach could have unintended consequences:

- **Suitability of the proposals for AMR meters** – Ofgem have verbally confirmed that this definition of Remote Access Meter is intended to capture any metering system where data can be accessed remotely. Energy UK's members do not believe that such an intention is sensible, particularly for AMR type meters. These are one-way communications of a meter reading from the meter (with no ability to remotely change the frequency of when readings are sent) to either an energy supplier, or an appointed Data Collector, and any changes are likely to result in a requirement for costly and disruptive exercises to re-programme AMR devices, or to replace metering equipment.

Energy UK's members assume that Ofgem are not intending for suppliers to have to carry out such activity, and if this is indeed the case, then this definition will need to be revised accordingly.

- **Definitions of Electronic Consumption Data Display and Remote Access Meter** – it is not clear why the definition of Electronic Consumption Data Display has been added, and we would question whether it is needed at all. As currently drafted, this definition is likely to capture a wide range of electronic devices (such as a smart-phone with an energy related 'app' that can only be the responsibility of the consumer) – and we do not believe that this is Ofgem's intention. The proposed definition of Remote Access Meter could also capture all smart-type meters, even when a supplier is treating that meter as a dumb meter, and therefore not utilising any remote access capability. With this in mind, we believe that the definition of 'Remote Access Meter' should be amended to:

Remote Access Meter

means an Electricity Meter that, either on its own or with an ancillary device:

- (i) provides measured Electricity Consumption Data for multiple time periods and is able to provide such data for periods of less than one month; and
- (ii) is able to provide the licensee with remote access to such data, and the licensee is utilising the remote access capability; and
- (iii) is not a Smart Metering System or part of a Smart Metering System.

- **Applying the same framework to Micro-Business customers** – Whilst Energy UK's members are broadly in support of extending domestic customer protections to Micro-Business customers, our members have confirmed that there are some non-domestic customers that fall into the Micro-Business definition by virtue of the size of their business (the definition being less than 10 employees and turnover of no greater than £2m) that are metered and settled on a Half-Hourly basis due to the volume of energy they consume. For these customers, should they refuse to give permission for suppliers to collect Half-Hourly consumption data, their supplier will be in breach of the Balancing and Settlement Code. A simply 'applicable to all Micro-Business customers' approach is therefore not appropriate, and this does need to be addressed.

The contractual arrangements with micro-business customers who have AMR metering installed at their premises are very different from those who have smart type meters installed. In many instances suppliers have no contractual arrangement with the customer in relation to the metering equipment on site, or the sharing of data with other parties such as the Data Collector/Aggregator. As written, the obligations would require suppliers to need to make provision for compliance with the proposed obligations through some form of contractual arrangement either with their customer, or with an external or independent party for which they have no direct contractual arrangements with. Energy UK's members do not believe this was Ofgem's intention, and as such, this needs more careful consideration. .

- **The current definition of 'Notice' is restrictive** – Whilst not part of this current consultation, the current requirement for suppliers to give 'Notice' to customers of their rights (and by that, this means written notice), is causing some of our members concern when developing their internal processes ready for the smart roll-out. The 'Notice' requirement is acceptable when suppliers are pre-planning their smart roll-out activity, as they can design processes that means 'Notice' is provided before the installation visits occurs, and that once the meter has been installed, the supplier can then begin to provide services based on the consent that has or hasn't been provided – they can set this up immediately. In the case where an installation visit is requested before any pre-installation letter fulfilment has occurred, the supplier will need to delay setting up the relevant DCC DUGC service requirements until 7 days has elapsed after 'Notice' has been provided. Suppliers believe that changing the requirement to 'notice' will provide the relevant flexibility required.

### **Extending the Smart Metering Installation Code of Practice to smart-type/advanced meters**

All of Energy UK's large supplier members see no issues in extending the principles of the SMICoP requirements to all domestic smart-type and advanced meter installations. However, there are certain aspects that would need to be considered before any decision is taken to formalise the current voluntary arrangement in to Licence Obligations.

For example, it may be the case that smart-type/advanced meters may not be able to communicate with an IHD, and therefore a supplier would not be able to satisfy its SMICoP requirements to offer an IHD for each installation. Our members will continue to apply the principals of SMICoP to installations of smart-type and advanced meter installations including at Micro-Business premises on a voluntary basis. However, it is not appropriate to extend this continued voluntary arrangement for other non-domestic, advanced meter installations.

Should you wish to discuss any element of this response in more detail, please don't hesitate to contact Rosie McGlynn by email at [rosie.mcglynn@energy-uk.org.uk](mailto:rosie.mcglynn@energy-uk.org.uk), or by telephone on 07931 525324.