

## **The Information Commissioner's Response to Ofgem Consultation on "Consumer Empowerment and Protection in Smarter Markets"**

The Information Commissioner has responsibility for promoting and enforcing the Data Protection Act 1998 ("DPA"), the Freedom of Information Act 2000 ("FOIA"), the Environmental Information Regulations ("EIR") and the Privacy and Electronic Communications Regulations 2003 ("PECR"). He is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, solving problems where he can, and taking appropriate action where the law is broken.

The Information Commissioner welcomes the opportunity to respond to Ofgem's consultation on "*Consumer Empowerment and Protection in Smarter Markets*".

As the questions asked in the consultation do not directly relate to the legislation that we oversee, we have not answered them specifically. Instead, we have made the following comments.

We are pleased to note Ofgem has identified that processing personal data raises concerns around data security and privacy, and that there is a need for adequate protections to be in place to ensure consumer confidence in the smart metering programme.

We generally support consumer data being used in innovative ways for the benefit of consumers, provided any potential risks to privacy are identified and appropriately addressed.

Ofgem will note that data protection and privacy issues arise whenever consumers' consumption data is being collected and used. We would always encourage data protection and privacy issues to be considered at the earliest possible stage in product development in accordance with privacy by design principles, and the use of privacy impact assessments. This is essential to ensure that data protection legal compliance is achieved in practice and privacy risks minimised. This will not just help inspire public trust and confidence, it is also more beneficial and cost effective than retrospectively 'bolting on' a solution at a later date if initial ill thought out safeguards are found to be inadequate. We expect Ofgem

to promote this approach in its regulatory framework. For further information please refer to the relevant pages on our website<sup>1</sup>.

It is essential that Ofgem considers the potential risks to consumers' privacy in all of the focus areas it has identified.

We are keen to continue to work with Ofgem and the Smarter Markets Programme to ensure that data protection and privacy safeguards are in place.

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<sup>1</sup> [http://ico.org.uk/for\\_organisations/data\\_protection/topic\\_guides/privacy\\_by\\_design](http://ico.org.uk/for_organisations/data_protection/topic_guides/privacy_by_design)