

DNOs and other interested parties

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Dear stakeholder

Overall criteria for the assessment of Distribution Network Operators' data privacy plans for access to household electricity smart metering data

Summary

This letter describes our¹ overall criteria for assessing the Distribution Network Operators' (DNOs) plans for access to household electricity smart metering data, referred to in this letter as 'data privacy plans'. If a DNO wishes to access smart metering data under certain provisions of its licence, it will need us to approve its data privacy plan. The data privacy plans should demonstrate how the DNO intend to anonymise household-level data from smart meters which relate to a period of less than one month. A DNO will be able to obtain such data if we approve its data privacy plan.

Context

The conditions under which DNOs are allowed to access household Electricity Consumption Data from smart meters are set by Standard Licence Condition 10A (SLC10A) of the Electricity Distribution Licence.

According to paragraph 10A.2 of SLC10A, a DNO must not, in respect of any relevant premises, obtain any Electricity Consumption Data which relates to a period of less than one month.

This prohibition does not apply where the requirements of any among paragraphs 10A.4, 10A.6, 10A.7 or 10A.8 are satisfied. Of these, within the scope of this letter, only paragraph 10A.4 is of interest².

The requirements of paragraph 10A.4 are that:

- (a) the licensee has submitted proposals to demonstrate to the satisfaction of the Authority that it can implement practices, procedures and systems which are designed to ensure that, so far as is reasonably practicable, the outcome described at paragraph 10A.5 is achieved;
- (b) the Authority has given approval to the licensee to obtain, once it has implemented such practices, procedures and systems, Electricity Consumption Data which relates to any one or more periods of less than one month; and
- (c) the licensee has implemented those practices, procedures and systems.

¹ The terms 'the Authority', 'Ofgem', 'we' and 'us' are used interchangeably in this letter. The Authority is the Gas and Electricity Markets Authority. Ofgem is the Office of the Authority.

² In summary, 10A.6 refers to individual consent given (and not withdrawn) by a domestic customer; 10A.7 refers to reasonable grounds for suspected theft of electricity and 10A.8 refers to domestic customers not objecting to being involved in a trial involving use of smart meter data.

Paragraph 10A.5 goes on to state the outcome that paragraph 10A.4 is seeking to achieve: that smart meter data obtained by the DNO which relates to a period of less than one month ceases (through aggregation or by means of any other process) to be capable of being associated with a domestic customer at relevant premises.

This letter describes the overall criteria we expect to apply in our assessment of whether or not a DNO has met the conditions of paragraph 10A.4, such that the outcome described in paragraph 10A.5 is achieved. We will use the criteria to decide if a DNO will be able to implement a method for anonymising household electricity consumption data relating to a period of less than one month so that such data can no longer be attributed to a specific household.

The compliance of the data privacy plans with the following criteria will also ensure that the plans conform to the relevant regulations on the treatment of personal data (Data Protection Act³) and the privacy of customers using communications networks or services (Privacy and Electronic Communications Regulations⁴).

In the remainder of this letter we refer to household Electricity Consumption Data which relate to a period of less than one month to be 'granular data'.

Expected content of the DNOs' data privacy plans

We will assess the DNOs' data privacy plans based on a set of criteria. In developing these criteria, we have been informed by the government's response to the data access and privacy consultation for the Smart Metering Implementation Programme.⁵ The criteria which follow have been developed in consultation with the Department for Business, Energy & Industrial Strategy, Citizens Advice and the Information Commissioner's Office (ICO). We also acknowledge the Generic Privacy Framework that the Energy Networks Association (ENA) has been developing on behalf of DNOs.

DNOs should demonstrate that practices, procedures and systems can be implemented to aggregate or otherwise anonymise the data to ensure that, as far as is reasonably practicable and cost-effective, it can no longer be associated with an individual premises. It will be necessary for DNOs' privacy plans to meet the following criteria.

1. Explain clearly what electricity consumption data will be accessed, in what format, over what period of time, from which consumers, and for which specific purposes. Those purposes must be relevant to the regulatory requirement to develop and maintain efficient, co-ordinated and economical systems for the distribution of electricity.
2. Explain how smart metering data favourably compare to traditional electricity consumption data in terms of feasibility, cost effectiveness and efficiency in achieving the purposes described in our first criterion, and provide any supporting quantification of the benefits that could be delivered for different groups through access to this data (eg network benefits, consumer benefits, future development of smart grids etc.).
3. Provide assurance that any commercial use of the data by the DNO or third parties is excluded from these purposes, both before and after the data anonymisation.
4. Explain clearly how, where, when and by whom collation, maintenance, use and deletion of the data would take place securely and cost-effectively (these steps

³ <http://www.legislation.gov.uk/ukpga/1998/29/contents>

⁴ <https://ico.org.uk/for-organisations/guide-to-pecr/>

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/43046/7225-gov-resp-sm-data-access-privacy.pdf

form what is referred to as 'Electricity Consumption Data life cycle' in the ENA's Generic Privacy Framework).

5. Demonstrate that consideration has been given to the best available techniques for minimisation, aggregation, anonymisation and/or other treatment of data. The ICO's Anonymisation Code of Practice should be used, among other sources, to inform the data anonymisation processes adopted.⁶
6. Be accompanied by a Privacy Impact Assessment, consistent with the ICO's code of practice.⁷
7. Demonstrate the conformity of the adopted IT security process to the ISO 27001 and ISO 27005 standards in order to exclude any possibility of the DNO re-associating the granular data to a premises after its anonymisation has been achieved.
8. Demonstrate that, in developing its privacy plan, the DNO has engaged constructively with relevant stakeholders, including consumer groups and those with expertise in approaches to data privacy. The DNO must provide details about the output of such engagement, including how it has responded to the feedback in refining its data privacy plans.

These criteria are meant to provide a general, high-level direction for DNOs when preparing their data privacy plans. DNOs may adopt the practices, procedures and systems that they consider most suitable to their specific circumstances, as long as these practices, procedures and systems meet the criteria in this letter, and the DNO adequately explains and justifies each choice.

DNOs should signal in the plans any proposed deviation from meeting the criteria, and provide adequate explanation and justification in each case. Each deviation will be subject to our assessment of the privacy risk it entails and the mitigation measures proposed by the DNO to tackle such risk.

Process for submitting and assessing plans

DNOs should submit data privacy plans to DNO.PrivacyPlans@ofgem.gov.uk. Each plan should be no longer than 20 pages, excluding appendices.

We will notify the DNO if we consider the submitted data privacy plan does not provide all the required information for us to be able to assess it fully.

Depending on the circumstances, we aim to assess the data privacy plans within three months of submission of sufficient information to make our assessment. In assessing the plans we may use external advice by independent experts, as appropriate. We may also consult on the assessment of the plans we are minded to make before issuing a final decision.

We will either approve or reject plans, with clear reasons given where plans are rejected.

If we reject a plan, the DNO will need to review the plan and re-submit it if it wishes to access granular data. In resubmitting its plan, the DNO should address the reasons given for rejection.

In the case of approval, we will publish a letter to the DNO notifying it of approval to access granular data for the purposes and in the manner outlined in its submission. The Data

⁶ <https://ico.org.uk/media/1061/anonymisation-code.pdf>

⁷ <https://ico.org.uk/media/1595/pia-code-of-practice.pdf>

Communications Company (DCC) is responsible for providing DNOs with access to such data. The DNO will then need to notify us when first accessing the data.

Once a plan has been approved, the DNO will need to resubmit it to us for further assessment if, at any point, it intends to make any material changes to the collection, treatment or use of the granular data as compared with the previous, approved plan. We will need to approve any revised plan before any changes may be implemented.

Once approved, we will publish each plan on our website. We will consider redacting commercially confidential information as appropriate.

Review

We reserve the right to do a compliance check at short notice in order to ensure that the practices, procedures and systems proposed by the DNO are being implemented according to the plan and to a satisfactory standard. This might mean that we prescribe corrective measures to be implemented by the DNO within a stated timescale, or we revoke the right to access the granular data.

We aim to conduct a wider review of the criteria for the assessment of the data privacy plans once DNOs have access to smart meters data from a significant number of households; this is likely to occur before 2020. With the continued roll out of smart meters, we need to ensure that the criteria are still relevant for the data available and its utilisation. This review will draw on any experience acquired over the intervening period on the use of smart metering data and updated best available techniques in the field of data privacy.

Moreover, we may undertake a wider review of the criteria in the event of any change in primary legislation, secondary legislation, key documents or government policy that is relevant to smart metering data and privacy, in order to ensure the consistency of the criteria with the new regulatory context. The timing of such a review will depend on the relevant trigger.

Finally, we reserve the right to amend the criteria at any point should circumstances require it. We will endeavour to communicate any such changes to DNOs and other stakeholders in a timely manner.

Next steps

DNOs should submit their data privacy plans once they think they have adequately addressed all the criteria. Plans should be submitted to DNO.PrivacyPlans@ofgem.gov.uk.

Yours faithfully



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For and on behalf of the Authority