

## Response to Ofgem Consultation

Access to half-hourly electricity consumption data for settlement purposes

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# GAVIN JONES CONSULTING

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## Summary

This consultation raises key questions about the use of smart meter data for the general good. Should Ofgem spend consumers money extending the scope of the Data Privacy framework to give consumers the option for opt out of settlement? If they did, what value would individuals pay to prevent their data being so used? And would this cover the likely costs?

Given the very large likely costs, the harm that the socialising of any portion of the costs would place on consumers, the likely small number of consumers who would wish to take up the option to prevent their data being used, particularly when having to cover the costs of the service, the answer is very clearly, no. Ofgem should not pursue this idea further,

The use of HH data for settlement is clearly a legitimate purpose under GDPR without consumer consent. The data access and privacy framework similarly makes clear that consent is not required as settlement is a regulated service. It is important to realise the reason that the exclusion is present in both GDPR and the DAPF is to protect areas where the greater good for society would be damaged by individuals removing their data from the system, and where the complex nature of the use means that whilst there isn't an individual harm, there isn't a clear individual benefit for sharing the personal data. Settlement is a clear example of why the exclusions were introduced.

In setting up the new Centre for Data Ethics and Innovation, the government recognises the need to encourage the sharing of data for the public good. In the case of energy data, the importance of Smart Grid for the future of the country is well known. It is essential that Ofgem recognises its role in encouraging the implementation and ensuring that it is not putting barriers in the way of innovation and exploitation.

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## Response

**1. What are your views on Ofgem's assessment of the implications of the options we have set out for access to HH electricity consumption data for settlement?**

It is clear that option 3 provides the maximum benefit to consumers as it is not only the lowest cost option but also maximises the benefits of smart meter data. Given that allowing customers to opt out will be to the detriment of those who choose not to, it is clear the Ofgem should not socialise the cost of any of the other options. As the costs are likely to be very high and the numbers choosing to opt out relatively small, the individual cost could be very substantial, potentially as high or higher than their total electricity bill. It is disappointing that Ofgem has not conducted any research into the willingness of customers to pay to prevent their data being used for settlement, whilst still accepting a Smart Meter.

Before proceeding with any option other than option 3, Ofgem should ensure that they have solid data that there are sufficient customers willing to pay large amounts to keep their data from use in Settlement.

Settlement is a regulated activity and should be treated as such for access to customer meter data.

**2. Do you agree with Ofgem's current view that the best balance could be achieved by a legal obligation to process HH electricity consumption data for settlement provided the consumer has not opted out, and if so, why? If you have a different view, please explain which option you would prefer and the reasons for this.**

I believe that mandating the provision of HH data for settlement is the correct option, together with a legal obligation to process HH electricity consumption data in all circumstances. I do not believe there is evidence that consumers would be prepared to pay to restrict the data, and that socialising the cost would put unfair burden on the majority of consumers, creating further problems of fuel poverty and lack of competitiveness for industry.

There is plenty of reasons to prevent exclusions, particularly given the opportunity for gaming by suppliers.

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3. **There is a risk that consumers who use particularly high volumes of electricity at peak could choose not to be HH settled and therefore disproportionately increase energy system costs, which would then be shared by all consumers. Do you have any views on whether or how we should address this issue?**

Exactly, allowing an option to opt out is far too risky to the interests of the majority of consumers.

4. **What are your views on the potential enhanced privacy options?**

Smart meter data is encrypted between Suppliers and the meter. They are restricted in the purposes they can use the data, and Ofgem and others have extensive powers to investigate and prosecute misuse. There seems very little value for extending the anonymisation further, particularly given the high likely cost of such anonymisation.

In particular the extremely high level of damage that would occur from a leak of all the nations smart meter data, should the information be centralised in one place, makes the use of a centralised retrieval service a very dangerous option, and one that clearly needs to be discounted.

5. **If we decided to further consider the hidden identity option, do you think data from all consumers should be pseudonymised or only data from consumers who have not chosen to share their HH data for settlement?**

I think that hidden identity option should not be pursued as it is too costly and the risk is small, and better managed by a robust enforcement mechanism.

The potential problems of any of the hidden identity plans seems high, either from reduced customers service, or financial issues for small suppliers due to settlement reconciliation problems, are also likely to damage the market.

6. **Please provide any information you can about the likely costs and benefits of these options.**

Looking at the various design options, the costs look likely to be very high, maybe half those of the more reliable switching programme currently underway.

7. **Do you think that there should be a legal obligation to process HH data from all smart and advance metered microbusiness customers for settlement purposes only? If you disagree, please explain why.**

Yes. All customers should be settled on a HH basis so as to maximise the system benefits.

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- 8. Are there any issues relating to access to data from microbusinesses that you think Ofgem should be aware of?**

No, provided that there is stringent audit of companies that data is handled appropriately.

- 9. We propose that domestic and microbusiness consumers retain the level of control over sharing their HH electricity consumption data that was communicated to them at the point at which they accepted a smart or advanced meter, until the point at which the consumer decides to change electricity contract. Do you agree this is the best approach?**

No. Ofgem should seek to maximise the system benefits of smart meter data, and put all users under the same regime. Anything else is likely to be far too costly.

- 10. What are your views on Ofgem's proposal to make aggregated HH electricity consumption data broken down by supplier, GSP group, and metering system categorisation available for forecasting?**

Suppliers should be able to use their own access to HH data from their customers for forecasting. I think the security risks of having all the data in one place to undertake this analysis is high. In addition, suppliers are very likely to want to subdivide the data by populations targeted for their own products, which will mean they will need the ability to link to other data sets.

- 11. Is there any additional data beyond this aggregated data that you consider suppliers will need for forecasting?**

Yes, Suppliers are going to need a large amount of additional information to assist with forecasting that enables the data to be aggregated against the profile of their target customers.

- 12. Our analysis suggests that HH export data reveals less about a consumer and is therefore likely to be of less concern to consumers than HH electricity consumption data. Do you agree?**

No, it is unclear that the small number of consumers concerned about suppliers access to their data, would not be similarly worried about export data, particularly where consumption has been netted off, as it still gives Suppliers information which they could misuse.

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**13. Do you consider that any additional regulatory clarity may be needed with respect to the legal basis for processing HH export data from smart and advanced meters for settlement?**

I suspect not.

**14. Do you have any thoughts on the monitoring/auditing environment for the use of HH data for settlement purposes?**

For all cases an auditing policy must be created or repurposed to make sure suppliers and their agents aren't using the data for other purposes but settlement, together with a process to handle consumers who are concerned their data is being misused. I suggest this includes a monitoring service, an investigative office, and the power to undertake unscheduled audits of parties will be important aspects of the regime.

**15. Do you have any additional thoughts or questions about the content of the DPIA?**

In summary I believe that Option 3 is the only viable choice, and that the cost and security risks of additional privacy options means they are not in consumers interest.