



Via email only to: smartmetering@ofgem.gov.uk

FAO: Raymond Elliot

5 September 2019

Dear Raymond,

Request to Review SMICoP (Transparency of Suppliers' Customer Survey Results)

Thank you for the opportunity to assess the proposals in your 'Request to Review SMICoP (Transparency of Suppliers' Customer Survey Results)'.

I would first like to apologise for the delay in responding to you. I realise you had asked that responses be submitted by 30 August; however, we did not wish to respond until we had obtained legal advice on certain aspects of the proposals.

While we broadly support the initiative, we remain concerned over the potential for its implementation to conflict with the General Data Protection Regulations (GDPR). We believe this may arise if Ofgem follows through with its proposal to include the results from Q4 of this year within the scope of the initial publication.

At issue is the need to advise customers, in advance, that the data they provide may be used in this way; something suppliers have not hitherto done and something that we understand may take several months to implement. Moreover, we do not believe this is something that could have retroactive effect.

Notably, as the Data Controller in these circumstances, it is the supplier that would be required to answer for any perceived breach of the GDPR. This is not a risk we feel suppliers should be expected to accept. Instead, therefore, we would suggest the problem may be most simply obviated by Ofgem revising the proposed timetable for the publication of these results, such that the earliest dataset on which the results are based comes from Q1 of 2020.

Notwithstanding the above, we have provided responses to the questions posed in your consultation in an annex to this letter. I trust that you will find these helpful. However, should you wish to discuss any aspect of our responses or proposals with me, then please do not hesitate to get in touch.

Yours sincerely,

Andrew Ward
Director of Smart Metering

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Annex

Question 1 - Do you agree that the Board be responsible for oversight and ownership of publication of the customer survey results?

Yes, it would seem logical that the Board be responsible for oversight and ownership of the publication of these customer survey results.

Question 2 - do you agree that the Administrator be responsible for delivering publication the customer survey results?

Yes, we agree that the SMICoP Administrator should be responsible for delivering publication of the customer survey results. However, it should not publish until it has obtained the explicit approval of the Board in each case.

Question 3 - should all suppliers' customer surveys results be published, including those who submit annually?

Yes, we agree that all suppliers' customer surveys results should be published, including those who submit annually. However, we need be vigilant to the potentially material effect that such a broad variety of sample sizes might have on the results, and ensure it is suitably accommodated in the explanatory notes that would accompany any publications.

Question 4 – Should all data within customer surveys be published?

Yes, we broadly agree that all data within the customer surveys should be published, but on the proviso that:

- publication offers true representations of supplier performances;
- consideration is given to the ways in which the information could be used, and the potential for it to be misinterpreted and/ or misrepresented, such that care is given to presenting and explaining it in a way that serves to minimise the scope for such misuse; and
- the risks that arise from reproducing “verbatim” responses in the absence of full context are mitigated, and that customer consent for such use has clearly been obtained.

Question 5 - how should questions where there is a low sample size be treated?

We take the view that low sample sizes too often result in unrepresentative data, and that not publishing in such instances would be the wiser course.

Question 6 - should publishing commence with the Q4 2019 results in the first quarter of 2020?

While, in principle, we would not have objected to this target, we remain concerned over the potential for its implementation to conflict with the General Data Protection Regulations (GDPR). We believe this may arise if Ofgem follows through with its proposal to include the results from Q4 of this year within the scope of the initial publication.

At issue is the need to advise customers, in advance, that the data they provide may be used in this way; something suppliers have not hitherto done and something that we understand may take several months to implement. Moreover, we do not believe this is something that could have retroactive effect.

Notably, as the Data Controller in these circumstances, it is the supplier that would be required to answer for any perceived breach of the GDPR. This is not a risk we feel suppliers should be expected to accept. Instead, therefore, we would suggest the problem may be most simply obviated by Ofgem revising the proposed timetable for the publication of these results, such that the earliest dataset on which the results are based comes from Q1 of 2020.

We therefore believe that publication is contingent on:

- a) all suppliers having included the right to use customers' data in this way;
- b) having the right controls in place;
- c) establishing the Board's review regime; and
- d) the general readiness of the code Administrator.

We also think points (b) to (d) would combine to make the Q4 target too ambitious anyway.

Question 7 - should customer surveys be published every quarter from commencement?

Yes.

Question 8 - should a time series that covers the previous four quarters of data be published?

Yes, we think this could offer a useful tool to aid understanding of the data. However, it would need to highlight where this data had been gleaned from a period before this revised approach was implemented.

Question 9 - should all results be published as raw data in spreadsheets, accompanied by a report that provides an accessible presentation of data on the performance questions?

No, we do not believe the publishing of raw data meets the objective for improved transparency, as raw data would be open to misuse and/or misinterpretation. Instead, we believe transparency is best achieved where comprehension is optimised by consistent analysis. We would therefore suggest that data tables with accompanying charts and commentary would be more appropriate.

We would reiterate our concerns over the additional risk of misinterpretation that is introduced with the publishing of respondents' verbatim comments, which typically are not representative of overall findings. Rather than simply publishing all verbatims, illustrative representative comments aligned with key findings could be used to support relevant charts and commentary to ensure a qualitative strand of insight is included.

Question 10 – should customer survey results be published on the SMICoP website?

Yes.