

# Consultation

## Switching Programme and Retail Code Consolidation: Proposed licence modifications

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The new switching arrangements and Retail Code Consolidation require changes to the standard licence conditions in relation to the licences held by the following parties:

- Electricity Suppliers
- Gas Suppliers
- Gas Shippers
- Gas Transporters (GTs)
- Distribution Network Operators (DNOs), and
- Data Communications Company (DCC)

We are consulting on the required licence changes to facilitate Retail Code Consolidation that are due to come into force on 1 September 2021. In order to create early regulatory clarity and certainty, we are also consulting on the licence changes to enable and require faster, more reliable switching. These changes will come into force at the same time as the new switching systems go live in summer 2022. We particularly welcome responses from licensees, market participants, those representing consumers' interests and other stakeholders.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations. We will publish the non-confidential responses we receive alongside a decision on next steps on our website at [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

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## Executive summary

This consultation requests views on the modifications that we<sup>1</sup> propose to make to certain standard licence conditions (SLCs) to facilitate Retail Code Consolidation and faster, more reliable switching.

Our licence modification proposals were consulted upon in June 2019<sup>2</sup> and have also been further reviewed with stakeholders, for example at the Switching Programme Regulatory Design User Group. This document sets out our updated thinking.

We launched the Retail Code Consolidation Significant Code Review (SCR) in November 2019.<sup>3</sup> The purpose is to rationalise retail energy codes by closing down the electricity Master Registration Agreement (MRA) and the gas Supply Point Administration Agreement (SPAA). Under this SCR we will move the requirements from these codes that need to be retained into the Retail Energy Code (REC) or another industry code where this is more relevant. The SCR also facilitates further consolidation by moving the Smart Meter Installation Code of Practice (SMICOP) and Green Deal Arrangements Agreement (GDAA) under the REC. The focus of our proposed changes to the SLCs are therefore to reflect the new governance structure, for example by replacing references to the codes that will be shut down.

Taking into account the views of respondents to this consultation, we intend to produce a statutory consultation in late April 2021 on our Retail Code Consolidation licence modification proposals. This will be coordinated with the SCR changes to industry codes so that parties will have a clear understanding of all of the proposed changes that will be taking place.

We expect to take a decision to modify the SLCs in July 2021. We propose that the Retail Code Consolidation licence modifications and the associated changes to the codes will take effect from 1 September.

We have also taken this opportunity to set out our latest thinking on the changes needed to facilitate the Switching Programme. The objective of the Switching Programme is to improve

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<sup>1</sup> References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work.

<sup>2</sup> <https://www.ofgem.gov.uk/publications-and-updates/switching-programme-and-retail-code-consolidation-proposed-changes-licences-and-industry-codes>

<sup>3</sup> <https://www.ofgem.gov.uk/publications-and-updates/retail-code-consolidation-scr-launch-statement>

consumers' experiences of switching, leading to greater engagement in the retail energy market, by designing and implementing a new switching process that is reliable, fast and cost-effective. This will build consumer confidence and facilitate competition, delivering better outcomes for consumers.

Alongside the proposed Switching Programme SLC modifications we have also taken this opportunity to set out our proposals for how to move from an expectation of five working day switching once the new arrangements have gone live, to next working day switching for domestic consumers and two working day switching for non-domestic consumers. We expect that change to happen quickly. At this point our thinking is that we will not reflect the next working day requirement in the supply licences, but we will review that if the market does not move to next working day as standard once we have indicated that it would be appropriate to do so.

Following this consultation, we will publish an updated version of the Switching licence changes in February 2021. We will then produce a statutory consultation on the Switching licence changes in early 2022 with a view to issuing a decision notice and bringing the changes into force in time for the go-live of the new switching systems, currently planned for the summer of 2022. At the same time, we will use the processes under the Switching SCR to direct the consequential changes to other codes.

We propose to use the SCR process to deliver Retail Code Consolidation and the Switching Programme<sup>4</sup> as this provides the best tool to coordinate the changes required across multiple industry codes and licences.

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<sup>4</sup> <https://www.ofgem.gov.uk/publications-and-updates/switching-significant-code-review-launch-statement-and-request-expressions-interest-participate-programme-workgroups>

## 1. Standard Licence Conditions: Electricity Supply Licence and Gas Supply Licence

### Section summary

This section consults on our proposals to modify the Electricity Supply Standard Licence Conditions (SLCs) and the Gas Supply SLCs to deliver Retail Code Consolidation and the Faster, More Reliable Switching Programme. In both cases we focus on the main changes following the initial consultation in June 2019.

We provide further policy detail here on our proposals for cooling off and for switch speeds after go-live.

### Questions

**Question 1.1.: Do you agree with the proposed standard licence condition modifications as drafted in Appendix 3 for the Gas Supply Licence?**

**Question 1.2.: Do you agree with the proposed standard licences condition modifications as drafted in Appendix 2 for the Electricity Supply Licence?**

**Question 1.3.: Do you agree with our proposal to modify the five working day switching regulatory backstop by introducing a 5pm cut off on a working day, after which, if a consumer signs up, the start of the five working day period will be counted as the next working day?**

**Question 1.4.: Do you agree with our proposals to measure the start of the grace period, from which Supplier B must continue to supply the customer on the same tariff after the consumer has switched and cancelled, from the point that Supplier B sends notice to the consumer of their options and that the grace period should be 15 working days?**

**Question 1.5.: Do you agree with our proposals to measure the start of the period over which Supplier A must offer to take a customer back on equivalent terms from the switch date? Do you agree that the period that Supplier A must maintain this offer is 16 working days from the switch date?**

1.1. We have carefully considered the responses we received since our June 2019 consultation, and here we focus on the changes to our proposals since that consultation. Appendices 2 and 3 set out the draft changes to the Standard Licence Conditions (SLCs) for the Electricity Supply Licence and the Gas Supply Licence. The most up to date consolidated versions of the SLCs not including the changes proposed in this consultation

are available through the Ofgem website.<sup>5</sup> The full SLC texts in the appendices will not necessarily be fully up to date for the areas where no changes are being proposed. Appendix 1 is a spreadsheet that aims to support understanding of the proposed changes.

## **Retail Code Consolidation**

1.2. The majority of the proposed modifications to deliver Retail Code Consolidation are changes to definitions that result from the close-down of the MRA and SPAA and the move of obligations to the REC. This has resulted either in us replacing references to the MRA and SPAA with the REC (or another relevant code) or updating terms to reflect the new definitions used in the REC. The other changes needed to deliver Retail Code Consolidation are described in more detail below.

### **Green Deal**

1.3. We have made changes to the suite of licence conditions that support the Green Deal Arrangements. These support the change in governance arrangements with both the Green Deal Central Charging database (GDCC), previously managed under the MRA and the Green Deal Arrangements Agreement (GDAA), which was a standalone agreement. The content of both the GDCC and GDAA will be moved to the REC. We have reviewed these proposals with the Department for Business Energy and Industrial Strategy (BEIS). We note that the Green Deal Framework Regulations require that the GDAA is in place. We have agreed with BEIS that including the GDAA within the scope of the REC is sufficient to meet the requirements of the legislation.

### **Smart Meter Installation Code of Practice (SMICOP)**

1.4. SMICOP was introduced as a standalone code to support the roll out of smart meters. Standard licence conditions set out requirements on suppliers to work together to establish SMICOP, describe the objective of the code, set out the detailed content requirements as well as describing the governance and assurance requirements.

1.5. As set out Retail Code Consolidation SCR Launch Statement, we propose to move SMICOP into the REC. As part of this proposal, we have reviewed the gas and electricity

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<sup>5</sup> <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>

supply standard licence conditions that support the current arrangements, and we propose a range of modifications:

- Remove the requirement on suppliers to establish the code, as it is already in place;
- Remove the references to governance, as SMICOP will be subject to the REC change control arrangements. We expect there to be a technical group under the REC that will be consulted on issues linked to SMICOP. Given that both BEIS and Citizens Advice are members of the SMICOP Governance Group, we think that they should be members of this technical group; and
- Retain the requirements to comply with SMICOP in the standard licence conditions. We expect the REC Code Manager and the REC Performance Assurance Board (PAB) to ensure that suppliers self-certify that they meet the SMICOP requirements as part of the REC Annual Statement<sup>6</sup> and to ensure that good quality data is provided to the Authority from the required independent compliance audits and customer surveys that are a feature of SMICOP. However, we want the Authority to undertake the review of suppliers' compliance with SMICOP using the information provided from the audits and surveys in the immediate future. Were we to reconsider this role, we would signal this to the REC Company (RECCo) and seek assurances that appropriate assurance activities would be undertaken by the Code Manager and REC PAB.

1.6. Our expectation is that, for SMICOP, and the Green Deal arrangements noted above, other than on governance and change control, the operational arrangements would remain largely the same when incorporated into the REC.

## Switching Programme

1.7. The Switching Programme proposals are more extensive. For example, we propose changing the regulatory backstop switch speed from 21 days to 5 working days, and introducing new arrangements to support customers who switch and then exercise their cooling off rights.

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<sup>6</sup> It is expected that REC Parties and users of REC Services will provide an annual statement setting out how they are continuing to comply with the REC requirements and ensuring that they have provided up-to-date information, for example on their security arrangements and operational contacts.

1.8. We have worked with industry to refine our policy proposals. This chapter sets out our updated thinking, focussing on developments since the June 2019 consultation.

1.9. In this section we have used Supplier A to mean the supplier that the customer was originally being supplied by; Supplier B is the supplier that the customer has switched to, or is in the process of switching to, and Supplier C is another supplier.

### **Five Working Day Switching**

1.10. In support of the move to faster switching, we set out our decision in the Switching Programme Outline Business Case<sup>7</sup> (OBC) to amend the regulatory backstop switching period in the Standard Conditions for the Gas Supply Licence and Electricity Supply Licence from 21 days to five working days.

1.11. For clarity, the five working days is a maximum period that a switch should take unless a consumer chooses a longer period, or other exceptions (as provided for in the SLCs) apply. Our expectation is that the switch speed should be faster, ie next day for domestic customers and next working day for non-domestic customers, once the initial bedding-in process has completed. This is set out in more detail below.

1.12. Our aim is to ensure that, where possible and unless consumers have requested a longer switch, they are switched within a maximum of five working days of having requested a switch.

1.13. Following the June 2019 consultation, one party requested clarification on what would happen if a customer requested a switch late on a day. It argued that this would reduce the time that they had to process the switch and the time that they had under licence obligations to switch the consumer.

1.14. In the Switching Programme OBC we said that if a customer signs up on a Monday, they should be with their supplier at the end of Friday. However, under the SLCs, 'Working Day' is not restricted to specific working hours; so in this example, a customer could sign

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<sup>7</sup> <https://www.ofgem.gov.uk/publications-and-updates/switching-programme-outline-business-case-and-blueprint-phase-decision>



up late on the Monday and the supplier would still, under our original proposal, need to switch the consumer by the end of Friday.

1.15. While expecting consumers to be switched more quickly than the regulatory backstop, we note that, from a licence compliance monitoring and enforcement perspective, it would be helpful to refine our position slightly. We have therefore proposed that the trigger point for calculating the five working day period, the ‘Relevant Date’ will be the day on which a Customer enters into a contract or, where the Customer enters into a contract after 5pm on a working day, the next working day. The “Supplier Guaranteed Standards of Performance (GSOP) for Switching”<sup>8</sup> currently use a slightly different form of words to deal with communications to the supplier outside of working hours. It is our intention to align the GSOP and the relevant Statutory Instrument with the licence when these changes come into effect, in order to ensure alignment with this approach.

1.16. The following table sets out three scenarios for how we expect this proposal to work in practice.

Scenario	Sat	Sun	Mon	Tue	Wed	Thur	Fri	Sat	Sun	Mon
Customer enters into contract at any time on non-working day	Customer enters into contract		WD1	WD2	WD3	WD4	WD5 Switch must take place by midnight			
Customer enters into contract on WD prior to 5pm			WD1 Customer enters into contract	WD2	WD3	WD4	WD5 Switch must take place by midnight			
Customer enters into contract on WD after 5pm			Customer enters into contract	WD1	WD2	WD3	WD4			WD5 Switch must take place by midnight

**Table 1: Illustrative scenarios showing the impact of proposed change to definition of Relevant Date on regulatory switching backstop**

<sup>8</sup> <https://www.ofgem.gov.uk/publications-and-updates/supplier-guaranteed-standards-performance-switching-final-decision-and-statutory-instrument>

1.17. There has been some confusion over our interpretation of when a consumer has entered into a contract. Our view is that this should be considered from the consumer's point of view. If the consumer has provided all of the information that they are reasonably expected to provide, either directly to the supplier or through its representative (such as a Price Comparison Website with which the supplier has an arrangement) to enable the switch to take place; have agreed to the switch taking place, and do not expect to take any further steps that, if not performed would stop the switch, then we think the customer would reasonably expect that they have entered into a contract by that point in time. The concept of a consumer "entering into" a contract is already applied in the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, and so suppliers should be familiar with this concept for consumer protection purposes. Ofgem expects to use this interpretation when considering licence compliance and monitoring.

**Question 1.3.: Do you agree with our proposal to modify the five working day switching regulatory backstop by introducing a 5pm cut off on a working day, after which, if a consumer signs up, the start of the five working day period will be counted as the next working day?**

#### **Transition from a Five Day Regulatory Backstop to Next Working Day Switching**

1.18. In the OBC we said the following about the switch speed in the period immediately following go-live:

"The arrangements [in particular, systems] we will put in place will support next-day switching from the start. However, we do not plan, at this stage, to require suppliers to switch customers next-day. We consulted on proposals for a regulatory backstop to require suppliers to switch customers within five working days of entering into a contract, subject to appropriate exceptions including, critically, when the customer has requested a later date. We have decided to introduce this requirement and will consult on detailed wording in due course. We expect that competition and customer choice will result in next-day switching becoming the norm. Should that not be case, we will consider whether it is necessary to further tighten the switching speed requirement in the supply licences."

"While the Switching Programme includes proposals to radically improve the quality of the industry held address data, thus reducing the risk of the wrong meter being switched, we are unable to understand with full certainty at this stage how effective they will be when in the context of faster switching. We therefore proposed a brief

transitional period (which we said we thought might be as short as three months) during which suppliers would be encouraged to default to a five-working-day switch. [...] Suppliers would not be prevented from switching customers faster during this period, but if they were to do so then they might be subject to additional obligations to ensure the right meter point was switched, or to penalties in the event of an erroneous switch. We explained in the consultation document that we will establish objective criteria to demonstrate that moving from a five-working-day default switch to a next-day default switch would not have an unanticipated impact on the rate of erroneous switches. The transitional period would then end once those criteria were met.

At the end of the transitional period any additional obligations relating to switching faster than five working days would be removed and the expectation would be that all suppliers would move to next-day switching as a default. We do not currently expect to change the regulatory backstop requirements to next-day, but will consider doing so if suppliers fail to move to next-day switching once the transitional period has ended.”

1.19. We recognise that some suppliers have historically raised concerns about the impact of next-day switching during this transition period on other suppliers. We have not identified any specific risks here and have therefore not proposed any specific measures aimed at protecting suppliers, as opposed to consumers, during this period. If parties are aware of specific areas of risk to suppliers from faster than five-day switching during the transition period we would be interested to receive evidence of those risks and any proposed mitigations.

1.20. We are proposing not to be prescriptive about the “additional obligations to ensure the right meter point is switched.” We will ask suppliers who want to switch faster than five working days during this transitional period to satisfy themselves that they have mitigations in place that give them additional confidence with regard to the reliability of their switching arrangements. In order to do so, they might want to be able to demonstrate efforts to create higher than standard data quality and validation above and beyond normal industry practice and/or take additional external assurance of the reliability measures taken. The evidence should show how high levels of confidence are created by the suppliers own systems and processes and can mitigate against any problems with the data they receive from the losing supplier.

1.21. With regard to the penalties in the case of an erroneous switch, we now consider that the automatic compensation<sup>9</sup> for consumers subject to erroneous switches introduced under the Supplier Guaranteed Standards of Performance after the publication of the Outline Business Case, in May 2019, should provide a sufficient incentive to suppliers to ensure that they are not switching the wrong meter-point. We therefore do not intend to introduce further penalties for those suppliers who wish to switch faster than a five-working day switch during the transition period.

1.22. We are suggesting that Ofgem will end the transitional period, during which suppliers will be encouraged to use a switch period of five working days (and during which any suppliers wishing to switch faster than the five working day period would have to provide additional evidence with regard to their reliability measures), when the evidence shows that a) there is no evidence of significant numbers of erroneous switches prevented during the five working day switch period, and b) there is not a significantly higher level of switching problems associated with suppliers who do choose to switch faster than the five working day period compared to those who use the full five working day period. In addition we will want to see that there is an overall reduced rate of erroneous, delayed and failed switches compared to the situation before go-live of the new switching systems. Our analysis shows that this should overwhelmingly be the case.

### **Cooling Off Arrangements**

1.23. In the Switching Programme OBC we set out our decision on how suppliers should treat consumers who choose to use their legal cooling off rights<sup>10</sup> to cancel supply contracts after a switch. This followed extensive discussion and review with stakeholders as part of the Switching Programme.

1.24. In summary, we want consumers who cancel after they have been switched to be given a choice on whether to return to their previous supplier (Supplier A) on terms that are equivalent to those they would have been on had they not moved, move to a new supplier (Supplier C) or stay with their current supplier on a new contract (Supplier B). After a contract (with Supplier B) has been cancelled, and if the customer has not moved to another supplier or entered into a new contract with Supplier B, the consumer will

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<sup>9</sup> <https://www.ofgem.gov.uk/publications-and-updates/customers-entitled-automatic-compensation-switching-problems-1-may>

<sup>10</sup> These are set out in the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013: <https://www.legislation.gov.uk/uksi/2013/3134/contents/made>

remain on their contracted tariff for a grace period after which Supplier B can move them on to a deemed contract tariff.

1.25. As part of the work to translate this proposal into regulatory requirements, we have discussed two key question with stakeholders, through the Regulatory Design User Group. These relate to the trigger point for counting the grace period offered by Supplier B and how long Supplier A should be required to keep open the offer of taking the consumer back on equivalent terms.

1.26. At the point that the Switching Programme OBC was published our expectation was that a 30 day grace period to be offered by Supplier B would start from when the consumer cancelled the contract. The requirement on Supplier A to offer to take the customer back on equivalent terms was open-ended.

1.27. We have updated our proposals following further analysis. We now propose the following:

- **Supplier B grace period:** we consider that the trigger point for starting the regulatory count on the grace period should be when Supplier B sends notice to the consumer of the options that they have following their cancellation. This seeks to ensure that the consumer has the information that they need, when they need it, to decide their next steps. It seeks to account for any processing delay that Supplier B may experience between receipt of the cancelation notice and providing notice to the consumer of their options.

The licence would then require the grace period to be a minimum of 15 working days following this trigger point. Our analysis suggests that this this a reasonable period for the consumer to have received the notice of their options, made a decision<sup>11</sup>, contacted a new supplier (if that was their decision) and for a switch to take place before Supplier B is able to apply deemed contract terms (which are likely to be less advantageous to the consumer and not in line with the requirement that the consumer does not suffer any detriment as a consequence of switching and then cancelling);

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<sup>11</sup> We have reviewed our consumer research to understand what support this can provide to our assessment. When we look at our switching trials we see spikes in switching after the letter prompts were sent that last a few days and then revert back to a low level of switching quite quickly.

- **Supplier A offer of equivalent terms:** we consider that the trigger for counting the period of time that Supplier A is required to offer to take the consumer back on equivalent terms should be the switch date. This is a measurable date that both the supplier and consumer would be able to refer to in any discussions.
- Our assessment is that Supplier A should keep this offer open for 16 working days. This is a reasonable time period for the customer to have cancelled, to have received the notice of options from Supplier B, to have decided next steps and to have contacted Supplier A to request a return (if that is their decision).

**Question 1.4.: Do you agree with our proposals to measure the start of the grace period, from which Supplier B must continue to supply the customer on the same tariff after the consumer has switched and cancelled, from the point that Supplier B sends notice to the consumer of their options and that the grace period should be 15 working days?**

**Question 1.5.: Do you agree with our proposals to measure the start of the period over which Supplier A must offer to take a customer back on equivalent terms from the switch date? Do you agree that the period that Supplier A must maintain this offer is 16 working days from the switch date?**

1.28. As noted above, when a customer cancels post switch with Supplier B, we propose that Supplier B should send information to them setting out their options. With faster switching, it is possible that some customers will have switched to a new supplier (Supplier C) or have returned to Supplier A on a new tariff by the time that Supplier B has received and processed the customer's cancellation.

1.29. In the circumstance where a consumer has cancelled and has already switched in the way set out above, we propose that the requirement on Supplier B to provide the consumer with information on the options available to them does not apply. We also propose that the requirement on Supplier A to offer equivalent terms to customers only applies when the customer is returning to them directly from Supplier B. We think that retaining these obligations where the customer has cancelled and already switched could cause confusion for consumers.

1.30. For the avoidance of doubt, we propose to retain the obligation on Supplier B not to charge a termination fee where a customer has cancelled during the cooling off period and

for Supplier B to charge on the basis on the contracted terms for the period between the cancellation and the customer's subsequent move to their new supplier.

1.31. To do this, we have applied the terms of "Old Supplier" and "New Supplier". These are currently defined in SLC 50 of the Electricity Supply Licence and SLC 44 of the Gas Supply Licence (Smart Metering - Continuation of Arrangements on Change of Supplier). As these terms will now apply in more than one licence condition, we propose to move them to SLC 1 (Definitions for Standard Conditions).

### **Related Metering Point Objections**

1.32. It is a design feature of the new switching arrangements that Related Metering Points (which occur in the electricity market only) will be formally linked in central systems and that only the Primary Related Metering Point will be included in a Switch Request by the new supplier. Any Secondary Related Metering Points will switch automatically at the same time. This ensures that a single supplier will be responsible for each set of Related Metering Points.

1.33. Currently, there is a risk that Supplier B switches one Related Metering Point while leaving any others behind. This can lead to problems for consumers who may have inaccurate bills. This can also be confusing for suppliers in relation to responsibility for metering arrangements where the Related Metering Points are part of the same metering system.

1.34. Because of the risk for consumers, the Electricity Supply Licence currently permits Supplier A to object to the switch where this would not have effect for all Related Metering Points at the same time.

1.35. In the Switching Programme OBC and in the June 2019 consultation we set out our proposal to remove the right of supplier to object on the basis of Related Metering Points as we considered that risk to consumers would be removed by the new switching arrangements.

1.36. Given the potential consumer impact we have reviewed our proposal in light of our updated understanding. In particular, we have considered an option to defer the removal of the right to object on the grounds that it would cause Related Metering Points that have not been formally linked, to be split between suppliers. Under such an option, the removal

could take place at a later date, either after a defined time period or on direction by the Authority.

1.37. Having considered this alternative, we propose to retain our original policy position and remove the right of electricity suppliers to object where only one of a series of Related Metering Points has been submitted by Supplier B to switch at the time when the Switching changes are made. We note the good progress in linking Related Metering Points where they are currently being supplied by the same supplier. In instances where the Related Metering Points are already split, we are working with industry to resolve these issues and have also set revised targets to resolve these and complete the broader data cleanse ahead of CSS go-live. We may update our position if new evidence comes to light or if cleanse progress means the potential for customer detriment through split related metering remains after CSS go-live.

## **Annulment**

1.38. In the Switching Programme OBC we set out our decision that the switching arrangements should contain an annulment process that allows Supplier A to stop a switch from having effect where its customer has informed it that they have not entered into a contract with another supplier.

1.39. We are concerned about the potential for misuse by the losing supplier and the inclusion of this process is predicated on there being in place an effective performance assurance framework. To support this we have included licence obligations on Supplier A to retain evidence for 12 months of the reason why they have used the annulment process. One year is the period of time currently in place for customer requested objections and that we have proposed for retaining evidence on Change of Occupancy under the REC. We think that this is therefore directly comparable to the requirements of the annulment process.

1.40. The annulment process will only be permitted where a customer has informed the losing supplier (Supplier A) that it has not entered into a contract with another supplier. This is consistent with the current Customer Requested Objections process. We note the concern from some parties that this will reduce the opportunity for Supplier A to prevent erroneous switches. We consider that there is a greater risk that Supplier A may misinterpret or not fully understand the contractual relationship between the consumer and Supplier B. Where a consumer cancels, we think it is for Supplier B to withdraw the switch. Supplier B will (continue to) have licence obligations to stop the switch in this



circumstance and prevent an erroneous switch from taking place. We will monitor the operation of these arrangements once they have gone live and welcome evidence presented to us from the REC PAB.

1.41. In the context of our proposal above, and the singular use case for the Annulment process, we propose to remove the requirement on Supplier A to send a message to Supplier B when an Annulment is made. Suppliers should use the operation contacts arrangements under the REC (or potentially the Secure Data Exchange Service if they wish to amend the scope of this service) in instances where further information is required.

## **Objections**

1.42. In June 2019, we consulted on changes to the objection obligations for gas suppliers that would reframe these in the context of them being in charge of requesting objections under the REC, rather than requesting their gas shipper to this under the UNC and IGT UNC.

1.43. We have reviewed this proposal and included a new objections requirement in the Standard Conditions of the Gas Supply Licence. This seeks to retain the restrictions that are currently in those SLCs in circumstances where a switch is taking place under the Uniform Network Code or the Independent Gas Transporters' Uniform Network Code and is being facilitated by a gas shipper. The scope of the Retail Energy Code and the Centralised Switching Service are limited. They do not, for example, cover sites directly connected to the National Transmission System (NTS) and Liquefied Natural Gas (LNG) sites. While some of these instances may not be covered by the supply licence SLCs, for example, where there is an exemption from the requirement to hold a supply licence, we think that it is prudent to retain this requirement in case there are any such instances that would be covered and would otherwise have had protections decreased by our proposal to describe objections purely in relation to the Retail Energy Code.

## 2. Standard Licence Conditions: Gas Shipper Licence

### Section summary

This section describes the changes that we propose to make to the Gas Shipper Standard Licence Conditions (SLCs). We propose to implement these as part of the Switching Programme SCR.

### Question:

**Question 2.1.: Do you agree with the proposed standard licence condition modifications as drafted in Appendix 4 for the Gas Shipper Licence?**

2.1. We have carefully considered the responses we received since our June 2019 consultation, and here we focus on the changes to our proposals since that consultation. Appendix 4 sets out the draft changes to the Gas Shippers SLCs. The most up to date consolidated versions of the SLCs not including the changes proposed in this consultation are available through the Ofgem website.<sup>12</sup> The full SLC texts in the appendices will not necessarily be fully up to date for the areas where no changes are being proposed. Appendix 1 provides further detail on the reasons for each proposed change.

## Switching Programme

2.2. We proposed six modifications to the Gas Shipper SLCs. These can be categorised as either changes to reflect the new switching arrangements or house-keeping changes.

2.3. The changes to reflect the design of the new switching arrangements include removal of obligations that are no longer needed. For example, the obligation on a shipper to pass the Meter Point Reference Number to the Supplier. Given that suppliers will have access to this information for sites on the Central Switching Service (CSS) via the Gas Enquiry Service or could otherwise require this from shippers in their contracts with them, we think this is no longer necessary.

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<sup>12</sup> <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>

2.4. In some cases we have refined our proposals from June 2019 to reflect that the obligations in the Gas Shipper SLCs may be required for sites not recorded in the CSS. For example, SLC 14 placed obligations on shippers in respect of managing requests to object to switches. Given that suppliers, rather than shippers, will drive the switching process for sites on the CSS, we think that these obligations can largely be removed. However, some sites and their switching arrangements will continue to be managed by Xoserve under the UNC and IGT UNC. To account for this, and so as not to remove any consumer protections currently in place, we have retained obligations on shippers to only object in the circumstances permitted by the Gas Supply SLCs where they are shipping to a site with an exempt supplier (that would not otherwise be caught by the supply licence requirements).

2.5. Our house-keeping changes aim to remove obligations that are no longer required, for example on the basis that they are adequately provided for under the UNC and IGT UNC, or to improve the drafting of the SLCs, for example to resolve issues with the numbering of the contents page. We propose to make these changes at the same time as the Switching Programme changes on efficiency grounds as this would therefore only require one set of changes.

2.6. We note that some parties requested further house-keeping changes to be made to the Gas Shipper SLCs, for example where obligations are considered to be obsolete. While we do not propose to make any further changes as part of Switching Programme SCR, we welcome views from respondents on which SLCs they consider should be amended and how.

### 3. Standard Licence Conditions: Electricity Distribution Licence and Gas Transporter Licence

#### Section summary

This section consults on our proposals to modify the Electricity Distribution Standard Licence Conditions (SLCs) and the Gas Transporter SLCs and Standard Special Conditions Part A, Part B and Part D, to deliver Retail Code Consolidation. We do not propose to make any changes as part of the Switching Programme SCR.

#### Questions

**Question 3.1: Do you agree with the proposed standard licence condition modifications as drafted in Appendix 5 for the Electricity Distribution Licence?**

**Question 3.2: Do you agree with the proposed standard licence condition modifications as drafted in Appendix 6 (a-d) for the Gas Transporter Licence?**

**Question 3.3: Do you think the change to the definition of Metering Point to remove direct reference to the codes is suitable, and do you consider there to be any risks or unintended consequences that we should take into account for our decision?**

3.1. We have carefully considered the responses we received since our June 2019 consultation, and here we focus on the changes to our proposals since that consultation. Appendices 5 and 6 (a-d) set out the draft changes to the Electricity Distribution SLCs and the Gas Transporter SLCs. The most up to date consolidated versions of the SLCs not including the changes proposed in this consultation are available through the Ofgem website.<sup>13</sup> The full SLC texts in the appendices will not necessarily be fully up to date for the areas where no changes are being proposed. Appendix 1 provides further information to support understanding of the proposed changes.

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<sup>13</sup> <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>

## Retail Code Consolidation

3.2. In the June 2019 consultation we set out our proposed changes to the licences held by Gas Transporters and Distribution Network Operators to support our Retail Code Consolidation proposals.

3.3. Most of these were minor changes that would result from the close down of the MRA and SPAA, the move of requirements to the REC and the desire to update terms to reflect the terminology used in the REC.

3.4. In the Gas Transporter SLCs we have identified a number of additional changes from the proposals consulted upon on in June 2019. These are minor changes, for example to amend the term “Meter Asset Manager” to “Meter Equipment Manager” to match the term used in the REC. These changes follow the same logic of the changes proposed in June 2019.

3.5. We have made one additional proposed change to the Gas Transporter SLCs. As discussed further below, we have decided not to remove obligations to provide Supply Point Information Services.<sup>14</sup> Instead, and to mirror the existing approach in the Electricity Distribution Licence, we propose to add a power for GEMA to issue a derogation from these requirements. For efficiency, we propose to make this change as part of the Retail Code Consolidation modification. This means that no changes would be needed to deliver the Switching Programme.

3.6. We have also decided not to make a minor housekeeping change to Standard Special Condition (SSC) A15: Agency as part of the Retail Code Consolidation modifications. In June 2019, we proposed removal of this condition on the basis that, under SSC A15.1A, it had ceased to have effect. We have coordinated with the Ofgem RIIO-2 team and it will now take forward consideration of removal of that licence condition.

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<sup>14</sup> Standard Licence Condition 31 and Standard Special Condition 31A: Supply Point Information Service.

3.7. In the Distribution Network Operators licence, we have further considered the definition of a Metering Point. This definition currently refers to principles and guidance contained within Schedule 8 of the MRA. We propose to amend the definition of Metering Point to remove the direct reference to the codes, and instead refer to a unique account within the registration system. From Retail Code Consolidation, Schedule 8 will move to the REC as part of the MRA Transition Schedule. We propose that following CSS go live, the principles and guidance in Schedule 8 will be moved to either the BSC or enduring sections of REC, as obligations or guidance documents as appropriate. We are asking a specific question (Q 3.3) on this proposal.

3.8. We have not materially altered our other proposed changes to the Electricity Distribution Licence to deliver Retail Code Consolidation following the June 2019 consultation. There have been some minor amendments and the details of these are described in Appendix 1.

## Switching Programme

3.9. Electricity Distributors are required by their licences to provide Meter Point Administration Services (including a register of data, an industry facing enquiry service and a customer enquiry service). They are also required to provide Data Services (Meter Point Administration Service services provided in accordance with the MRA, and Data Transfer Services offered in accordance with the Data Transfer Service Agreement). The Electricity Distributor SLCs set out rules for provision of services to those that request it, their efficiency and economy and charging arrangements (eg publication of charging statements).

3.10. Gas Transporters are required to provide Supply Point Information Services (also including a register of data, an industry facing enquiry service and a customer enquiry service).

3.11. In June 2019 we consulted on removing these licence obligations where they were adequately provided for under industry codes. Views were generally supportive, in particular around the provision of enquiry services.

3.12. However, we are cautious about removing requirements that users and providers of these services may continue to rely on, even if those circumstances may be reduced by the introduction of the new switching arrangements and the associated changes to roles and responsibilities.

3.13. We recognise that there may be some concerns around duplication of regulation and conflicts with the new arrangements. Until the new arrangements have bedded in, we think that this is a responsible approach. Having reviewed the current SLC drafting, we do not think that there is a conflict. However, to help alleviate concerns, we have made a new proposal. Under the Electricity Distribution SLCs there is provision for the Authority to issue a derogation against these requirements. If there was a material conflict of obligations that was likely to cause an issue for consumers and/or market participants then we would consider issuing a derogation. There is not currently such a power to issue a derogation in the licences of Gas Transporters. We therefore propose to add such a derogation power as part of the Retail Code Consolidation changes.

### **Consumer Enquiry Services**

3.14. Both the Gas Transporter and Electricity Distribution SLCs contain obligations to provide enquiry services for consumers to obtain information, for example the name of their current supplier and meter point numbers. The REC does not contain any provisions on consumer enquiry services so the licence obligations must remain.

3.15. We note that it may be possible for the REC to develop these arrangements further, for example by providing a dual fuel service for consumers so that they only need to look for information in once place. We would welcome RECCo, Gas Transporters and Electricity Distributors examining this proposal after Retail Code Consolidation has been implemented.

### **Industry Enquiry Services**

3.16. Both the Gas Transporter and Electricity Distribution SLCs contain obligations to make information available to market participants to facilitate the operation of the market.

3.17. We note that RECCo is expected to contract with the Electricity Enquiry Service (EES) Provider for the continued provision of enquiry services in the electricity market as part of the Retail Code Consolidation changes. We recognise that retaining the obligation in the Electricity Distribution licence is a cautious approach in this context. However, we want to ensure that any additional services that Electricity Distributors currently provide to the market, for example helpdesk arrangements for new connections, continue to be provided.

3.18. RECCo is expected to contract with the Gas Enquiry Service (GES) Provider when the new switching arrangements go live. As with the approach on electricity, we recognise

that retaining the obligations in the Gas Transporter licence is a cautious approach. Our aim here is to ensure that any requirements for information outside of the Gas Enquiry Service can continue to be met by Gas Transporters.

## **Register of Data**

3.19. Gas Transporters and Electricity Distributors have licence obligations to maintain a register of data to facilitate the switching process and settlements.

3.20. Once the new switching arrangements have been introduced, the responsibility for managing the switching process, for premises within the scope of the REC, will move to DCC. However, we consider that Gas Transporters and Electricity Distributors should retain obligations to ensure that there is a register of data required for other purposes, such as settlement. While, in time, it may become clearer that such obligations can be managed solely through industry codes<sup>15</sup>, at this point in time, and given that critical importance of these arrangements for the effective operation of GB energy markets, we propose to retain high level obligations in SLCs with detailed requirements set out in codes.

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<sup>15</sup> For example, under the BSC in respect of the data managed by Electricity Distributors in SMRS, and under the UNC and IGT UNC for the data managed by Xoserve on behalf of Gas Transporters and shippers.



## 4. Smart Meter Communication Licence

### Section summary

This section consults on our proposals to modify the Smart Meter Communication Licence Conditions. It also describes the changes proposed for the Switching Programme, although these are not being consulted upon at this time. The detail of the proposals is set out in appendices to this document. The focus of this section is therefore on providing a high level summary on how our thinking has developed on the Switching Programme following the initial consultation in June 2019.

### Questions

**Question 4.1: Do you agree with the proposed licence modifications as drafted in Appendix 7 for the Smart Communication Licence?**

4.1. We have carefully considered the responses we received since our June 2019 consultation, and here we focus on the changes to our proposals since that consultation. Appendix 7 sets out the draft changes to the Smart Communication Licence. The most up to date consolidated versions of the SLCs not including the changes proposed in this consultation are available through the Ofgem website.<sup>16</sup> The full SLC texts in the appendices will not necessarily be fully up to date for the areas where no changes are being proposed. Appendix 1 provides information to support understanding for each proposed change.

### Retail Code Consolidation

4.2. The majority of the modifications to the Smart Meter Communications licence that we propose to make to facilitate Retail Code Consolidation relate to Licence Condition (LC) 15. This condition sets out DCC's obligations to deliver and manage the Centralised Switching Service (CRS).

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<sup>16</sup> <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>

4.3. The main change that we have made from the proposals consulted upon in June 2019 has been to update DCC's obligations in relation to communication with the CRS.

4.4. The current licence obligations refer to maintaining agreements to secure a Switching Network. The agreed design has now changed such that parties are required to use particular conventions, such as encryption measures, for exchanging messages with the CSS, for example over the internet. A central Switching Network is not being procured by DCC at this time.

4.5. The proposed new licence obligation requires DCC to make sure that there are appropriate communication arrangements in place for parties to exchange messages with the CRS. We expect those minimum standards to be set out under the REC. If those standards can no longer be met, the licence would require DCC to seek to introduce improvements to existing and/or new arrangements that would ensure that the standards are capable of being met. We are considering whether it would be appropriate, and would add clarity, to specify the parties and components of the CSS that are in the scope of this requirement (for example, listing the Registration Service, the Switching Portal and, for Switching Data Service Providers, the Switching Service Management System). **We would welcome views from stakeholders on whether this should be defined in the licence or only specified in the REC.**

4.6. To improve readability and to reflect the new design context, we have redrafted the rules around DCC being able to enter into an agreement with a third party network. The intent behind the obligations remains the same. We have replaced references to the Data Transfer Service and IX Network with generic reference to third party networks. We have retained the provision setting out that where DCC enters an agreement on standard user terms, the DCC's licence conditions relating to Relevant Service Capability and Fundamental Registration Service Capability do not apply.

4.7. We have adjusted the prioritisation that DCC must make when considering its obligations on smart metering compared to switching. The change ensures that, once the new switching arrangements have gone live, they will have the same priority level as smart metering. Prior to that, the smart metering obligations will have priority.

4.8. We have made a number of additional changes to the Smart Meter Communication Licence to facilitate Retail Code Consolidation. These relate to changing defined terms and other associated improvements linked to the close down of the MRA and SPAA and incorporations of rules with the REC and removal of the reference to a Switching Network.

## Switching Programme

4.9. We propose to improve the definition of the CRS so that, once the new switching arrangements have gone live, it better reflects the enduring requirements.

4.10. At the moment, the CRS definition is framed by reference to the existing services provided by Gas Transporters and Electricity Distributors as described in the licences, the MRA and SPAA. While this may be clear now, this may become less meaningful over time.

4.11. We have therefore updated the definition so that it more closely aligns with DCC's obligations under the REC. Because of its importance to the operation of the switching arrangements, we have specifically called out the Switching Operator role as well as the CSS. The drafting is deliberately inclusive so that it also includes any other requirements on DCC set out under the REC.

4.12. We have considered whether, for efficiency purposes, we could make these changes alongside the Retail Consolidation Changes. Our view is that it would be clearer to make these changes when the new switching arrangements go live. This is because the changes refer to REC requirements which we expect to become operational under the REC as part of switching go-live.

## 5. Next Steps

### Section summary

This section describes our approach to consulting stakeholders on the proposed licence modifications and implementing these changes.

### Licence Modification approach

5.1. Taking into account views on this consultation, we aim to publish a statutory consultation on the Retail Code Consolidation licence changes in April 2021 and the decision notice in July 2021 for Retail Code Consolidation. From 1 September 2021, any licence changes needed to support Retail Code Consolidation are expected to be active and will place obligations on licensees.

5.2. We will publish updated proposals for the Switching-related licence changes in February 2021 (following the evaluation of consultation responses). The statutory consultation and decision will take place in the first half of 2022, so that the changes can come into effect at the same time as the go-live of the new switching systems.

### How to respond

5.3. We want to hear from anyone interested in this consultation. Please send your response to the person or team named on this document's front page.

5.4. We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.

5.5. We will publish non-confidential responses on our website at [www.ofgem.gov.uk/consultations](http://www.ofgem.gov.uk/consultations).

### Your response, data and confidentiality

5.6. You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory

directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.

5.7. If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.

5.8. If the information you give in your response contains personal data under the General Data Protection Regulation 2016/379 (GDPR) and domestic legislation on data protection, the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 8.

5.9. If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

## Appendices

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## Appendix 8 – Privacy notice on consultations

### Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

#### 1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem"). The Data Protection Officer can be contacted at [dpo@ofgem.gov.uk](mailto:dpo@ofgem.gov.uk)

#### 2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

#### 3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

#### 3. With whom we will be sharing your personal data

Unless you indicate otherwise, we will make your response, as provided, available online.

#### 4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for as long as an audit trail on decision-making relating to the questions discussed in this document should reasonably be available.

#### 5. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data

- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3<sup>rd</sup> parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

**6. Your personal data will not be sent overseas.**

**7. Your personal data will not be used for any automated decision making.**

**8. Your personal data will be stored in a secure government IT system.**

**9. More information** For more information on how Ofgem processes your data, click on the link to our "[Ofgem privacy promise](#)".