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Laura Nell
Code Governance Remedies
Office of Gas and Electricity Markets
9 Millbank
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1 February 2017

Dear Laura,

Industry Code Governance: Initial consultation on implementing the Competition and Markets Authority's recommendations

During 2016 Smart DCC Limited (DCC) successfully launched the data and communications infrastructure that allows suppliers to install smart meters in every home and small business across Great Britain. This release provided the core functionality of the smart meter communication service for SMETS2 meters. This is a major milestone that delivers a first-of-a-kind, coherent and highly secure communication service for the energy industry. The remaining functionality, including prepayment functionality, will be delivered early in 2017.

The DCC is the code owner, party to and the delivery body for the Smart Energy Code (SEC). Both the SEC and DCC are likely to play a key role in the delivery of large scale strategic reform in the future as the energy industry makes the transition toward a smart energy system and becomes increasingly driven by data and communication technologies.

DCC welcomes this consultation on implementing the Competition and Markets Authority's (CMA) code governance remedies and we support Ofgem's ambition to achieve greater coordination during the development and delivery of strategic change. The consultation recognises that the position of DCC and the SEC is different in that there is already a clear line of accountability to Ofgem via DCC's licence. We note that Ofgem has said it will consider the most appropriate approach for the smart metering area as its thinking develops. We are keen to be involved at an early stage to understand Ofgem's thinking in this area.

We would like to highlight the following areas where we consider that more detailed development is required before any decisions can be taken:

- **Licensing:** Licensing will increase Ofgem's ability to direct change, but the review needs to give more detailed consideration to how the allocation of the code manager and delivery body functions to roles can best drive the development and delivery of code changes. The SEC has played a key role in the delivery of the smart metering programme and it may be useful to review the licensing and governance structures of the SEC and DCC to see what has worked, and what lessons can be learned.
- **Competition and commercial constructs:** Effective competition requires clear and consistent commercial incentives to attract new participants. Further consideration needs to be given to what commercial constructs will drive the development and delivery of change, and what financial incentives encourage appropriate behaviours.
- **Scope:** The scope of reform should be expanded to include a greater focus on the code modification process itself. The review needs to more fully consider what form technological and business change is likely to take in the future, and to question how the energy industry wants to manage and execute future change as it makes the transition toward a smarter, more flexible energy system.

DCC's detailed responses are set out in the annex to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Robin Healey at robin.healey@smartdcc.co.uk, or myself.

I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely,



Helen Fleming
Director of Corporate Affairs, DCC

Annex

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DCC's detailed responses

Licensing

Licensing code bodies will make a significant contribution to implementing the CMA's objective of increasing Ofgem's ability to influence both the development and implementation phases of the code modification process. Whilst DCC supports such licensing in principle, we do not believe that a compelling case has yet been made to support Ofgem's intent to integrate code administration and delivery functions into a single licenced entity.

DCC, as the delivery body for the SEC, will adopt whatever model of licensing is decided to be in the best interests of the energy industry and consumers based on an informed assessment of the benefits and drawbacks of each model. Because the smart metering implementation programme represents the type of strategic change which Ofgem is seeking to address with these reforms, a review of the SEC model of governance may help to inform such an assessment.

DCC's role as delivery body under the SEC was regarded as being critical to the success of the smart metering implementation programme. Because of this it was considered appropriate to licence DCC in order to increase Ofgem's oversight and control of its activities.

During implementation DCC's role has been closer to a programme management function than a traditional delivery body. Financial incentives are structured accordingly with the focus on the timely delivery of key programme milestones. These incentives may change as DCC moves into its operational life but similar mechanisms may be appropriate to incentivise the delivery of future large scale strategic change.

The fundamental structures of each code need to be fully considered before deciding which model of licensing should apply. For example, DCC is a party to the SEC and acts as a service provider to other SEC Parties. The SEC forms the multi-lateral contract between DCC and its Users so it is important that the SEC Panel, supported by the code administrator, is able to act independently of DCC. This separation is enshrined in the SEC.

Under the SMETS2 programme, DCC operates a contract management function to drive delivery across six primary service providers and around 30 sub-contractors. The way in which the obligations placed on DCC via its licence are reflected in the commercial contracts it has with these service providers could provide insight into how a potential service contract model could apply to code administrators and delivery bodies under other codes.

Competition and commercial constructs

The CMA identified one potential benefit of licensing to be the possibility of opening up the market for code administration and delivery services to full competition, but it stopped short of making a formal recommendation to this effect. DCC does not consider licensing to be necessary to facilitate full competition as there are already examples of code administration or delivery functions being awarded via contracts allocated using a competitive process. For example, the role of code administrator for the SEC was awarded to Gemserv on the basis of a competitive tender.

Attracting new entrants to the market requires a predictable and sustainable commercial construct. The licence conditions, price control and incentive arrangements work together to influence behaviours and outcomes and need to be considered as a package and in light of the specific objective of each code and associated code body and delivery body.

Scope

The proposed changes to roles and responsibilities will increase Ofgem's ability to direct strategic change and will provide greater regulatory oversight of change delivery. However, they stop short of addressing the mechanisms by which the delivery of a large number of strategically important changes will be coordinated during a time when the pace of change in the energy industry is expected to increase significantly.

DCC considers that in order for the reforms outlined in the consultation to fully address the issue of the energy markets to failing to keep pace with regulatory developments and other policy objectives, the scope of the reforms should be expanded to include elements of the modifications process itself.

The consultation focuses on strategic and cross-code change but does not consider the potential detrimental impact that a large number minor or less significant modifications could have on the timely delivery of strategic change. It may be necessary to establish mechanisms allowing Ofgem to suspend or discontinue minor modifications in order to ensure that industry and central systems have sufficient capacity available to implement key strategic changes. This could be done on the recommendation of each code's Panel in conjunction with the consultative board, taking into account the total volume and priority of change across all codes.

The proposal to establish a consultative board starts to address the impact of change across codes, but the consultation does not make it clear how the dependencies between separate modifications will be assessed, or how interdependent modifications will be developed and delivered in a coordinated manner. It would be useful to have more detail around the remit and constitution of the consultative board to allow us to understand the extent to which it will contribute to making the change process quicker or more efficient.

DCC
February 2017