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12 June 2020

Dear Jacqui,

**DCC Operational Performance Regime: May 2020 Consultation**

## 1. Introduction

Thank you for the opportunity to comment on Ofgem's consultation on DCC's Operational Performance Regime (OPR), including the Statutory Consultation and Draft OPR Direction.

It is important that DCC is subject to a regime that provides appropriate incentives. As we said in our response to Ofgem's October 2019 price control consultation, we have been concerned that the current regime is not providing these incentives and does not reflect our customers' experience of the services we provide.

However, at the time we produced our consultation response, we wrote in the expectation that Ofgem would focus on the types of measures contained within the current regime, rather than a significant reopening of the scheme to potentially put margin at risk against a wide range of our activities.

Given Ofgem is now consulting on such a widening, our consultation response is focussed on ensuring that any broader regime is designed in a way that reflects the type of business we are, how we operate and is deliverable in the timeframes you are suggesting.

We would urge Ofgem to consider in depth what its medium to long term objectives are for DCC and how best to use the OPR to incentivise us to achieve them. It is also important to ensure that any new regime is implemented in a way that allows us time to makes these changes and avoids inadvertently creating negative incentives. At a high level, we ask Ofgem to consider:

- The changes that any new regime would require to the way we operate and report, and the associated costs to customers of delivering that change
- How much time it would take to be able to be able to perform effectively under the new incentives e.g. we may not be able to back them off in our contracts with suppliers for some time
- Whether there are options of running the scheme without attaching it to margin initially so we can baseline our performance, particularly the areas that are new. An alternative would be to reduce the weightings for untried new measures
- Avoiding subjective grading of our performance wherever possible
- How potential conflict in the objectives of DCC and the SEC Panel would be resolved when our performance on customer engagement is assessed
- Whether applying standard practice from other industries, including those in the Public Sector, that are not comparable to us, is appropriate
- The weightings of each of the measures should be considered carefully and reflect the importance our customers place on them, as well as our degree of control and leverage. If we cannot control performance, OPR ceases to be an incentive regime and becomes a penalty mechanism
- The symmetry of the incentives – if the new regime exposes us to more risk than the old one (for example by including new and untried measures), it would be appropriate to consider potential reward in parallel. For example, allowing us to make more margin on mechanisms such as the External Contract Gain Share (ECGS) or revisiting the grounds for Baseline Margin Applications (BMA)

*Implementation*

It is difficult to fully assess Ofgem's proposals as some of the detail has not yet been provided and will be the subject of further guidance. For example, the "x" and "y" associated with the Minimum Performance Level (MPL) and Target Performance Level (TPL) for the system performance measures have not been provided. Similarly, if the SEC Panel is to set MPL and TPL levels for the metrics that are not fully aligned with our contracts we will not be able to deliver them without contract change, which may not be possible to deliver and at the very least will impose additional costs. We ask Ofgem to consider carefully the implementation lead times where it is asking DCC to act in a different way particularly where contractual changes might be required to deliver new performance levels.

Beyond system performance, Ofgem is incentivising DCC to act differently, but has made no allowance for the length of time the organisation would take to respond and make these changes.

We could not see anywhere in the consultation that these implementation issues have been considered and no provision has been made to allow for a trial period – unlike when OPR was introduced. We urge Ofgem to reconsider this.

Without further detailed proposals and assessment of their impacts, we have concerns that Ofgem's proposals may impose additional costs on DCC and our customers, increase regulatory burden and reduce our ability to control how we operate.

## 2. System Performance

We support SECAS's Operational Metrics Review project and have made considerable efforts to engage in the process and help deliver its report. We support the principle that the measures we are incentivised on in OPR are the SEC performance measures. This allows for consistency between provisions to which we are subject. However, any proposed performance measures need to be deliverable under our contracts. If they are not, then we would have to attempt to renegotiate these contracts or remove the supplier from our supply chain. Both situations would entail costs, which would be passed onto industry.

It is clear from the documentation associated with the SEC modification raised to implement the findings, that it will be extremely challenging to meet the timetable necessary to align with Ofgem's process to provide for implementation from 1 April 2021. As above, the process does not allow for a prolonged period of trialling, nor do we have clarity on what the MPL and TPL would be for the purposes of the incentive scheme or the associated "x" and "y" numbers. This puts us at significant risk of losing margin because the policy needs more time for successful implementation, not because our performance has been lacking.

In addition to the above general points about the process, we have the following comments on Ofgem's proposed areas for incentivisation.

*Install and commission*

Ofgem notes that a component of this is already covered by the WAN coverage metric. As we set out in our response to Ofgem's October 2019 price control consultation, we have concerns with the current measure. It is binary, does not take account of how many users have been affected, and ignores performance in other parts of the country. We support this measure being redesigned on the assumption it deals with these issues and is compliant with the performance levels we require in the relevant contracts.

*Prepayment*

This is not incentivised in the current OPR. We recognise the importance to our customers of prepayment smart meters and welcome the principle of incentivising us in this area. However, as with other new metrics we strongly suggest a trial period is provided for to allow us to make the necessary adjustments in reporting and approach.

*Firmware management*

We note that this metric is being described differently to the working paper. It is now solely about firmware management. We understand our customers' desire to have strong performance on firmware management but note that some of the firmware problems are not within our control. A minimum requirement is that this metric ensures we are incentivised only on what we can control. The measure should also account for the fundamentally different technological solutions in the North versus the Central and South regions. The firmware configurations are different so there would need to be different metric calculations.

Ofgem should also consider whether it is appropriate to introduce new metrics beyond what customers prioritised in the SEC Ops Group's review, allow time to baseline performance and set targets that are achievable.

*Service availability*

We believe this is an area where significant enhancements are needed and support a new metric. The current measure is limited as it covers only a small subset of our services. It should be expanded to reflect availability of the broader range of services provided by the CSPs as well as the DSP. Again, we would recommend establishing a baseline first to inform target-setting, as well as ensuring that targets are consistent with the performance levels specified in our contracts with service providers.

*Changes from the working paper*

We note that Ofgem is not proposing to include several of the measures in the working paper and the SEC Ops Group's OMR report. While in general we support these being excluded from the regime, we want to avoid additional OPR changes in the near future, given the regulatory uncertainty and additional costs this creates. It would be helpful to have clarity from Ofgem on whether and when it might reintroduce these excluded measures.

*Assessing performance between SMETS1 and SMETS2 meters*

Ofgem is considering assessing our performance separately against each measure for SMETS1 and SMETS2 meters. Currently there is a relatively small sample of SMETS1 meters that can be used to assess historical performance and establish a baseline against which to set targets. Over time this will grow, with SMETS1 meters forecast to account for around 23% of the meter population. During this relatively early period, setting incentives that separately target SMETS1 and SMETS2 will need careful consideration given the issues that a small sample size creates; particularly given the challenging nature of some of these meters. Setting new incentives based on a small sample, without historical baselining would expose us to a level of risk that does not currently exist.

These issues aside, where weighting occurs, we support the meter types being assessed separately.

*Assessing performance across regions*

We understand Ofgem's rationale for splitting margin at risk between the three regions. In principle we agree this would be an improvement, not least because of the fundamentally different technologies deployed in the North versus Central and South regions. However, any approach will involve compromises. If margin is split evenly into three weightings of 33%, we stand to lose more margin in areas where there are fewer meters, essentially weighting each meter in that area more heavily. Alternatively, Ofgem has argued that if the weighting is based on the number of meters, we could slow down installation in the worst performing area to minimise our lost margin. In practice, we are not in control of the speed of rollout, and any attempts to slow installations and migrations for such reasons would be obvious.

Further, Central and South are virtual regions with the same Service Provider and technology, so any incident or issue in one of the regions is likely to affect the other. This would therefore mean that if there was a significant incident in one of these regions and we lost all 33% of margin in this region, the same would occur in the other, resulting in all 100% being lost across all regions because of the proposed penalty mechanism. This would mean that performance in the North would be irrelevant regardless of how well we have done and disincentive us from focusing on this region. This feature would mean the new proposals contain the same flaw as the current version of OPR where we stand to lose all margin across all three regions, if one region performs badly.

*Penalty mechanism*

We think the penalty mechanism could create perverse incentives. If our performance in one region is so poor that we lose all our margin, it would be due to serious factors outside of our control and would already have our full attention – not least because of how we have improved performance reporting internally through our supplier dashboards.

As above, if we lost all margin in either Central or South, we would likely be in the same position in the other region, meaning we would lose all margin under the penalty mechanism. This is not much of an improvement on the current OPR measure and would create an incentive to focus more heavily on Central and South as poor performance in either of these regions would be more likely to result in all margin being lost. This perverse incentive would not exist if the potential for poor performance in a single region to result in 50% lost margin was removed from the proposals.

If Ofgem wants to change the balance of risk we face it should consider the potential for upside too, for example by allowing a larger proportion of ECGS to be retained or new grounds for the Baseline Margin Adjustment (BMA).

## 3. Customer Engagement

We are committed to the continuous improvement of our customer engagement. Over the past year we have made considerable effort to listen and respond to how all our customers would like to be engaged. At the end of 2018 we launched a detailed consultation exercise to understand what our customers felt about our engagement, what activities worked well for them, and what we could improve on. This consultation provided us with detailed insight and concrete examples of where our approach needed to improve. After reviewing our customers' responses to this consultation, we published our response in May 2019 setting out key commitments to our customers that:

We would:

- Signal clearly and early what we will engage on and the channel we will use
- Provide greater transparency in our engagement – sharing our evidence base for decisions where competition law, security and commercial sensitivities allow
- Share feedback we have received from customers and provide clear commentary on how input from customers has shaped our plans
- Engage all our customers – large and small – using a variety of channels, not just the regulatory fora that some of our smaller customers struggle to engage with

And our engagement would:

- Fall into one of three categories: inform, shape, survey
- Be simple, targeted and proportionate
- Be linked to our internal decision-making processes so that customer views are considered throughout the lifecycle of our programmes and projects
- Be early and often, keeping disruption to delivery to a minimum

To deliver this, we have changed significantly as an organisation, building a team with the key capabilities to lead the strategy and achieve a significant cultural shift in how we deliver high quality customer engagement. Some examples of what we have done are below.

- Developed an enhanced Quarterly Finance and Programme Update (QFPU) where we share significant business cases with our users, and ask for their review
- These sessions have been supplemented with webinars where we discuss and review individual business cases with customers
- Overhauled our bilateral and multilateral engagement strategy ensuring the right people attend the right meetings
- Hosted collaborative workshops on our Business and Development Plan in London and Manchester. DCC was able to gain good customer insight from these workshops and we have published a "you said, we did" document so customers know how we have taken on board their feedback
- Launched a new customer portal – a one-stop-shop for DCC customers where we publish engagement plans, business cases and over time will share meeting notes and data about individual customer performance
- Identified the Network Evolution (NetEvo) programme as requiring additional engagement in the form of Insights Workshops and webinars to lead customers through the programme, gain industry insights, views and support
- Opened up our ExCo meetings to customers of all sizes, on a rotating basis to understand our stakeholders' key issues
- Invited the SEC Panel Chair to a DCC Board meeting so the Board could hear first-hand the views of the SEC Panel specifically on the development of the NetEvo programme
- We have a dedicated team that tracks customer effort across DCC's different services and interfaces. This is part of our corporate objectives, so the organisation is financially incentivised to do customer engagement well
- We are building customer relationship dashboards to reflect customer satisfaction, for reporting to the organisation including senior colleagues
- DCC is now running an internal initiative to build up customer awareness within DCC, to improve standards of presentation so plans are more transparent

Other regulated companies, such as National Grid took many years to develop their customer engagement approach to where it is. Getting customer engagement right takes time.

*Assessment criteria*

We believe the changes we have implemented, the activities we are currently undertaking and the plans we have for the future compare favourably with other regulated infrastructure companies.

The type and level of engagement we undertake is diverse. Our engagement approach for mandatory activities is constrained by the regulatory rules to which we are subject. In such areas we are required to transmit information in a relatively standard way as guided by government. Consequently, any assessment criteria need to bear in mind the control we can exercise over the engagement approach.

Engagement is a two-way activity requiring customers to participate actively. Evidence suggests that many customers engage on specifics they are interested in, but do not on other issues. Moreover, many customers have to be selective or limited in their engagement, because they do not have the capacity to be involved in a wide range of issues. This is particularly true for small and independent suppliers who rely on third parties, like Managed Service Providers, to represent their interests and feedback their views. An incentive based on the relatively small number of customers who actively engage on a wide range of issues will be influenced most heavily by the larger players in the market with more capacity to respond.

Moving straight to a financial incentive without baselining DCC's performance could expose us to a level of risk that we cannot manage. We are also unclear what the rationale is for such a measure to be included in OPR when Ofgem already has the tools to incentivise us financially on customer engagement - last year Ofgem disallowed expenditure on a KPI dashboard because it argued we did not engage our customers well enough. Given it is proposing to now have tools to incentivise us in two different ways, we want to avoid a situation where we are penalised for the same issue twice by Ofgem, once through a disallowance as per RY18/19 and again through OPR. The consultation is silent on how this issue would be handled.

While we understand Ofgem has rationalised the customer engagement measures into three from the working paper's six, the requirements are largely unchanged. This does not address our broader concerns about moving straight to an incentive scheme in this area. In fact, having fewer measures intensifies our risk compared to the working paper.

A key issue we have with this aspect of the incentive scheme is the final component: "taking account of customers' views". This has the highest weighting of the components of between 33% and 50%. While we absolutely understand the importance of listening to our customers and acting on their feedback, we do not have a homogenous set of interests to satisfy. We are concerned that this aspect would be assessed as "has DCC done whatever its customers have told it to", rather than an incentive around taking all the information from its customers, considering how to balance the competing requirements, and proposing the most economic, efficient and pragmatic way forward in accordance with our licence. We must be allowed some discretion in choosing the best way forward, as our and customers' incentives are not always aligned, nor are our technical and legal requirements. It would also be helpful to understand who Ofgem classifies as "customers" for the purpose of the incentive scheme – if it means those who pay for our services through the charging statement, or everyone with a stake in the smart meter programme (such as Meter Operators), there will be misalignment.

*Assessment approach*

If Ofgem proceeds with this incentive scheme it will be important for any assessment to be balanced, independent and comprehensive. While we understand the view that the SEC Panel might be best placed, the Panel does not have visibility of the full range of engagement activities we undertake, so any assessment it provides would be based on partial evidence – commercial issues, for example, are not discussed with the Panel. Similarly, we know from our engagement with customers that many of them prefer bilateral engagement rather than formal engagement through the Panel and its sub-groups. It is also clear that the SEC Panel wants DCC engagement to be solely through them rather than through any other bilateral or multilateral fora. This is a fundamental issue that Ofgem needs to consider as to deliver what many customers tell us they want (more bilateral and wider multilateral discussions) puts us directly in conflict with the SEC Panel's desire. This then becomes a problem if the SEC Panel assesses our performance. This conflict needs to be resolved.

It is unclear how the SEC Panel would gather the information it needed to assess, for example, the timing and frequency of engagement when it is not party to every engagement we have with customers. To illustrate, the consultation is clear that the incentive would cover all our activities, including BEIS-initiated change. How the SEC Panel would assess how we have engaged BEIS when it would be unlikely to be involved in many of the conversations, is unclear.

In terms of how our performance would be assessed, a rating of 0 to 4 with a straight margin retention line would be a subjective mechanism. As described, achieving level 4 performance would require no areas of concern being identified. Given the subjective nature of the proposed assessment, we expect it would be near-impossible for there to be no concerns raised. The bar for level 4 appears to be set far too high, and every year would likely see us habitually lose at least 25% of the margin at risk for this measure, possibly because of trivial issues.

It would be preferable if we were assessed on whether we had delivered the engagement activities to which we have committed and whether we had reflected customer views in our decision-making. This would mean we would continue to have control over our customer engagement plans without being assessed against a subjective set of arrangements. It would also mean that any assessment could be undertaken in a simple way by comparing our plans for the year against what we delivered.

We are concerned that this incentive scheme will impose costs on us which will ultimately be passed onto customers, as we will have to change our approach to meet the guidance and recruit a team responsible for compiling detailed submissions to the relevant assessor.

## 4. Procurement and Contract Management

DCC delivers its services by procuring and contracting with external Service Providers. In RY18/19, more than 72% of our total costs are associated with the delivery of these services. Given the high proportion of these costs, we are committed to ensuring that the delivery of these services, both during phases of implementation and live operation, is done in a timely manner and to the highest possible standard.

With the recent introduction of new services - SMETS1 and the Faster Switching's Centralised Registration Service - DCC has worked closely with all parties to ensure that DCC's ecosystem remains interoperable, reliant and secure. Because we have adopted these new services over the course of the last regulatory year, our supply chain has more than doubled - from 3 to 8 key Service Providers.

DCC is fully cognisant of the importance of managing contractual risks carefully to ensure services are delivered to agreed standards, on time and on budget. DCC has a highly capable Commercial team, comprised of three teams that are focussed on delivering value for money: the Contract Management team, the Commercial Operations team and the Programme Procurement team. These teams manage the Tier 1 and Tier 2 suppliers of the DCC, while the sub-Tier 2 suppliers are managed by experts across the wider DCC organisation.

*Procurement*

Taking our procurement approach first, the Commercial Operations teams procure services using a set of terms and conditions that are tailored to the procurements in question, drawing on standard documentation as appropriate. The terms and conditions for the Tier 1 and Tier 2 suppliers align to the Government Legal Service Master Services Agreement. Therefore, the themes and principles of commercial best practice are present in all our major contracts and agreements.

The teams focus on the following activities:

- The performance management regime - agreeing appropriate key performance indicators (KPIs) and service level agreement (SLAs) and their specific deductions of fees for breaches of performance
- Ensuring that project milestones (where applicable) are incentivised
- That appropriate gainshare mechanisms are present
- Agreeing appropriate levels of indemnity
- Ensuring that the intellectual property rights are optimal
- Benchmarking the costs against the market, and having the opportunity to further market test and benchmark these costs in the contract
- Ensuring that the contractual governance (including enhanced scrutiny and step-in) is optimal for the goods and services being procured

Additionally, prior to the DCC progressing to approve procurements there is an Executive level peer review (known as a "Black Hat" review) to ensure that all the inherent commercial, financial, legal and operational risks are discussed including an explanation of how these risks have been mitigated.

*Contract management*

With regards to the contract management activity there are two functions that are focussed on the management of the Tier 1 and Tier 2 suppliers: the Contract Management team and the Supplier Relationship Management team.

The Contract Management team ensures that the suppliers meet their obligations. An obligations tracker is produced which assists in this respect. A change management system (CMS) is used by the DCC that ensures the correct review and approval of project and change requests are made to the contractual timescales for response. The Contract Management team maintains a Contract Register which is used to plan procurement activity i.e. horizon planning, allowing us to determine and monitor the procurement pipeline effectively. In Regulatory Year 2019/20, the Contract Management Team processed approximately 230 change requests and 154 project requests.

The Supplier Relationship Management team works alongside the Contract Management team to ensure that the Tier 1 and Tier 2 suppliers are working effectively with the DCC to meets its objectives. This is a crucial function, relying on effective engagement with our suppliers. The Supplier Relationship Management team meets monthly, quarterly and annually to review individual supplier's performance.

These performance reviews are data driven and result in a rating of red, amber or green from which the DCC determines the necessary actions and activities. Where performance has been less than green for a consecutive period (three consecutive months rated as red, or six consecutive months rated as amber) then the DCC requires a performance improvement plan from the supplier that details the activities it will take to return the rating to green.

To complement these regular meetings, the Supplier Relationship Management team provides a set of commercial dashboards that contain all the relevant performance, contractual and relationship metrics that describe the current performance and relationship status of each supplier. This allows both sides to have a common understanding of the issues and their possible resolution.

The monthly performance ratings are included in an Annual Service Report that is published by DCC. The report provides commentary on the performance of each supplier throughout the Regulatory Year. DCC has found this to be a powerful motivator to drive supplier performance.

The combined efforts of the Commercial Team have yielded a cashable saving in Reporting Year 19/20 of approximately £113 million (subject to final verification) and a cost avoidance of approximately £15 million (subject to final verification). A notable achievement of the Commercial Team was the completion of the commercial activity on the SMETS1 programme that yielded a saving to the industry of approximately £450 million. This is in addition to the millions of pounds returned to the industry from refinancing of the Fundamental Service Provider contracts over the last few years.

The DCC Commercial team is keen to ensure its structure remains relevant and delivers excellent performance. It is currently increasing its capability through a targeted recruitment process to ensure DCC can continue to deliver despite the backdrop of a more complex supply chain.

Recently, the Commercial team has been working with the Cabinet Office and its Crown Commercial Representatives to ensure that we maximise our collective commercial leverage. Crown Commercial Representatives have spoken positively about our commercial approach – holding it up as an exemplar.

The DCC can demonstrate that it has the appropriate skills, processes and behaviours to achieve excellent outcomes. Because of this, we are concerned about the imposition of an incentive scheme that may materially constrain our ability to deliver the best outcomes for our customers.

We are a unique entity and if an incentive is applied to how we procure and contract, it would need to recognise these unique features:

- We are an asset-light infrastructure monopoly
- We must manage contracts we have inherited, over which we have little control, as well as procure and manage new ones
- What we are doing has never been done before, and the novel nature of the smart metering implementation programme should be recognised
- We need to move in an agile fashion to resolve problems as they emerge in such a unique environment

*Assessment criteria and submission requirements*

We are committed to procuring and managing our contracts effectively to deliver strong performance and value for money. In putting forward a proposal for an incentive scheme in this area, Ofgem must believe DCC needs to do something fundamentally different and that the proposed incentives will deliver that difference. The consultation does not seek to understand where DCC is relative to the framework put forward or consider how quickly it would take us to change. While we have concerns with the specific proposals, this does not mean that we are not committed to continuous improvement.

At the highest level, the themes within the NAO assessment framework are not problematic as they represent best practice, albeit there are some incorrect references in table 4.1 of the consultation, which have made the proposals confusing. Although the DCC can align to the themes if the intent is to apply the framework broadly, there are several references that relate to Public Sector procurement processes, policies and practices that would need to be modified to reflect the organisational context of the DCC. This therefore means that any audit would need to take a tailored approach to looking at our processes and procedures where such provisions in the framework are not relevant.

The NAO framework is not mandatory, it is guidance, designed to answer the question: “to what extent are government’s commercial relationships contributing to the value for money of its services”. As such, the framework applies to public spending. Its mandatory application to DCC as a private company with margin at risk tied to it would be unique. The NAO documentation itself also recognises that its "*assessment of individual contracts still depend on their own context and the audit framework often fits within a wider set of audit questions. We do not intend the framework to be a 'how to' for guaranteeing a successful contract*." It may be useful as a tool to help provide insight into a subset of commercial issues, but it is not intended to be a holistic framework.

*Scope*

It is unclear from Ofgem's proposals whether the incentive scheme would apply to all our contracts, including those we inherited and over which we have little control, or a subset. If a subset, we would need to know which ones are relevant. This is important because:

- If all contracts are within scope, this will impose significant costs for us to change our approach, a longer lead time as we change existing processes or develop new ones, increased headcount and the need to train staff in the new processes
- We do not have as much leverage over some contracts (our inherited legacy contracts) as those we have negotiated. For example, the key question in domain 4 "does the balance of risk and reward encourage service improvement, minimise perverse incentives and promote good relationships", results in very different answers if we compare our legacy contracts to those we have negotiated. This would need to be recognised in the incentive scheme, but the consultation is silent on how this would be handled

*Delivery of SEC Mod initiated change*

We note the intention to include assessment of whether Impact Assessments link back to the proposed SEC Modification Proposal outcome or business requirement and whether SEC Mods are tested and implemented effectively, efficiently and to time. In both these areas, our incentive performance would depend on the performance of other SEC parties in specifying their Modification Proposals fully, in a timely way and to the standard required of Ofgem's framework. It would not be appropriate to tie our performance to the activities of other parties. The incentive only works if we are in control of our performance against it.

*Assessment process*

Although we do not agree with the need for an incentive in this area, if one is implemented, we would prefer an auditor over the other options considered. However, deploying an auditor will impose costs on our customers and a regulatory burden on us.

Audits typically require a wide range of documents to be sourced, discussed and assessed, and a range of colleagues to be interviewed. Aside from financial and resource burden, this requires significant planning. Without seeing the proposals in full, it is difficult to comment on the impacts of this aspect of the regime. In addition, it would be useful to have more clarity on how the auditor would approach the assessment process. As an annual cycle, would the auditor continue to assess all the contracts we have, or just the new ones since the prior assessment? If we have not signed any new ones, would there be no assessment? If our contract management approach is assessed across all the domains again, this would be wasteful and repetitive, but if the assessment focusses on a subset, it would help if there were clarity on how that subset was arrived at.

Until we have sight of the full details of the proposals in the consultation, we cannot accurately assess their impacts. It may be that the costs and other impacts of attempting to comply with the revised measure outweigh its incentive effect.

*Scoring and penalty mechanism*

Ofgem is proposing to adapt the scoring mechanism used by the NAO to move from a three-point scoring system to a five-point system, with discretion on the part of the auditor. If this were the case, it will be important for each of the five scores to have a clear description of what constitutes these halfway levels of performance in a similar way to those that exist in the NAO framework. Without it there would be further subjectivity in the regime.

It also is not clear how Ofgem would aggregate up the individual scores across the 21 supporting questions it is proposing into a single number reflecting how much margin we would retain.

*Alternative proposal*

An alternative to Ofgem's proposal could take the form of the following:

- Benchmark DCC's procurement and contract management against similar organisations to identify DCC's strengths and weaknesses
- Identify the desired state for DCC to move towards
- Assess the costs and lead time of moving from the current state to the desired state
- Consult with our customers to secure support for the transition and its associated costs
- Once the changes are agreed, embed a baseline level of performance through KPIs, SLAs, OLAs or similar
- Ofgem applies a revised OPR incentive scheme based on DCC meeting these indicators and agreements

## 5. Statutory consultation on a proposal to modify the conditions of the smart meter communications licence

Ofgem is proposing to amend DCC's licence to provide for the OPR regime to be modified. In principle, we support this proposal as OPR will need to change as our services change over time. However, we would like to request that Ofgem considers:

- Minimising changes to OPR to preserve the stability of the regulatory regime
- The lead time required for DCC to adapt to any changes
- The split of information put into the guidance document versus the direction. The guidance document proposed for the new regime from April 2021 will need to contain a significant amount of detail on how the proposed new OPR will work, and ideally should have been in the consultation document

I would be happy to discuss the contents of this letter with you.

Kind regards

By email

**David Hunt**
Head of Economic Regulation