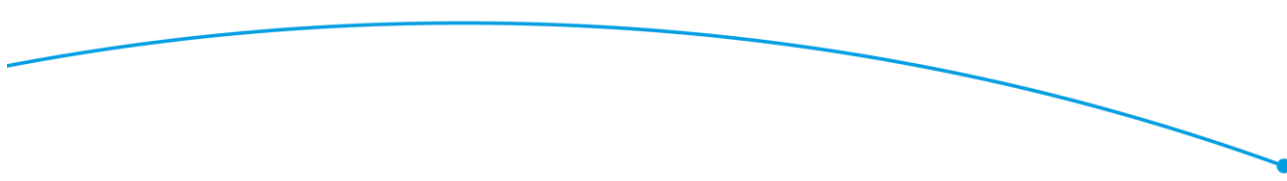




Department for
Business, Energy
& Industrial Strategy

SMART METERING IMPLEMENTATION PROGRAMME

Consultation on non-domestic smart metering
policy proposals and draft legal text



31 August 2017

Consultation on non-domestic smart metering policy proposals

The consultation can be found on GOV.UK:

<https://www.gov.uk/government/consultations/non-domestic-smart-metering-policy-proposals-and-draft-legal-text>

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Any enquiries regarding this publication should be sent to us at smartmetering@beis.gov.uk.

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General information

Purpose of this consultation

This consultation seeks stakeholders' views on non-domestic smart metering policy proposals including how to give effect to the Government's decision, following two separate consultations, to remove the DCC opt-out.¹

Issued: 31 August 2017

Respond by: 5pm on 19 October 2017

Enquiries to: smartmetering@beis.gov.uk

Smart Metering Implementation Programme - Policy and Consumers Team
Department for Business, Energy & Industrial Strategy,
5th Floor Victoria 3,
1 Victoria Street,
London, SW1H 0ET

Territorial extent:

This consultation applies to the gas and electricity markets in Great Britain. Responsibility for energy markets in Northern Ireland lies with the Northern Ireland Executive's Department of Enterprise, Trade and Investment.

How to respond

Your response will be most useful if it is framed in direct response to the questions posed, by reference to our numbering, though further comments and evidence are also welcome.

Responses should be submitted by email to smartmetering@beis.gov.uk and hardcopy responses sent to the BEIS postal address above will also be accepted.

Responses can also be submitted electronically via the e-consultation available at Citizen Space: <https://beisgovuk.citizenspace.com/sm/non-domestic-smart-metering-policy>

¹ See: <https://www.gov.uk/government/consultations/consultation-on-non-domestic-smart-metering>

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Other versions of the document in Braille, large print or audio-cassette are available on request. This includes a Welsh version. Please contact us under the above details to request alternative versions.

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

We will summarise all responses and place this summary on the [GOV.UK website](#). This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the [Government's Consultation Principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

BEIS Consultation Co-ordinator
1 Victoria Street,
London, SW1H 0ET
Email: enquiries@beis.gov.uk

1. Executive Summary

1. The roll-out of smart meters is an important national modernisation programme that will bring major benefits to businesses and the nation as a whole. Smart meters will give smaller non-domestic energy consumers control over their energy use and help them to make savings on the basis of better information about their consumption. Smart meters will also bring an end to estimated billing. Robust interoperability, which allows consumers to easily switch between suppliers whilst retaining smart benefits, is essential to support government objectives on easier and more reliable switching, ensuring that a competitive energy supply market can be fostered. Smart metering will underpin the transition towards a smart energy system, for example by providing functionality that supports time-of-use tariffs, and enabling non-domestic consumers to access the benefits this can provide.
2. This consultation sets out policy proposals that are designed to give non-domestic consumers access to the full benefits of smart meters, while at the same time recognising the diverse nature of these energy users and the need for proportionate regulation.
3. The recent Competition and Markets Authority (CMA) report² found that the energy market for microbusinesses and SMEs is less effective than that for large businesses, with smaller organisations experiencing barriers to engaging with the market. The non-domestic smart meter roll-out covers around two million sites³, the majority of which are microbusinesses and SMEs. The Government's view is that smart meters can play an important part in removing the barriers to microbusiness and SME engagement in the non-domestic energy market. This view was supported by most of the respondents to the April 2016 further consultation on the Government's minded-to position to remove the option for non-domestic suppliers to opt out of using the Data and Communications Company (DCC) for the operation of SMETS2 meters ('the DCC opt-out').
4. The Government response to the April 2016 consultation (published alongside this consultation document⁴) has therefore concluded that the DCC opt-out should be removed, as SMETS2 meters communicating via the DCC are essential to deliver the full suite of smart benefits to smaller non-domestic consumers. This is a step towards strengthening the smart offering for microbusinesses and SMEs by ensuring these consumers can access fully interoperable, secure smart meters operated within the DCC infrastructure.
5. As well as microbusinesses and SMEs, the non-domestic roll-out also covers a minority of large, multi-site energy consumers. Generally, these large consumers benefit from a well-functioning energy supply market, complemented by third party energy management

² See: <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

³ Supply licence conditions require energy suppliers to install smart metering systems (or in some circumstances, advanced meters) at premises whose average annual gas consumption is below 732 MWh per year and at all premises in electricity Profile Classes 1-4.

⁴ See: <https://www.gov.uk/government/consultations/further-consultation-on-non-domestic-smart-metering-the-dcc-opt-out>

services. As well as metering and data services, these third party services include bespoke data management and analytics, embedded generation and use of demand reduction equipment and building energy management systems to reduce and shift energy consumption. The market for large consumers is partly driven by large consumers' higher energy spending, and therefore buying power. In this context, the Government is seeking views and supporting evidence on two areas related to large consumers.

6. First, the Government proposes to amend the supply licence conditions to allow suppliers to give large non-domestic consumers an explicit choice between advanced meters and SMETS2 meters (Section 3). Key to this proposal is how to define large energy consumers in a way that ensures microbusinesses and SMEs are not captured.
7. Secondly, the Government is consulting on the case for exempting some non-domestic only suppliers from being required to become DCC Users. The intent is to exempt non-domestic only suppliers that supply predominantly large business consumers and as a consequence supply only a limited number of non-domestic premises covered by the smart metering mandate (Section 4). It is expected that such suppliers either have already installed, or intend to install, advanced meters at all relevant premises within their portfolio before the relevant advanced metering exception (AME) end date (or where the site is technically eligible for advanced meters).⁵ The proposal seeks views and supporting evidence on the appropriateness of exempting such suppliers from the non-domestic DCC User mandate until they acquire or install a SMETS2 meter, at which point they will be required to become a DCC User.
8. The final section of this consultation (section 5) seeks views on the draft legal text required to implement the removal of the DCC opt-out. As set out in the Government response to the April 2016 further consultation, most non-domestic suppliers will be required to become DCC Users by 31 August 2018 and to enrol SMETS2 meters with the DCC. This requirement would be subject to the proposal to exempt some suppliers (paragraph 7). Section 5 also sets out the draft legal text for consequential changes to the relevant licence conditions as well as proposals to simplify the DCC charging regime.

⁵ The large supplier AME end date is 21 January 2018; the small supplier AME end date is 21 May 2018. Technically exempt sites are those with U16 or current transformer meters installed.

2. Introduction

Scope of non-domestic smart metering

9. The Government is committed to ensuring that smart meters will be offered to every home and small business by the end of 2020. Energy suppliers are responsible, under standard conditions of electricity and gas supply licences ('supply licence conditions'),⁶ for rolling out smart meters to all domestic and small business premises. The Government's role is to provide the right framework against which they can plan.
10. An updated Cost Benefit Analysis of Smart Metering was published in November 2016. This estimated the costs and benefits associated with the GB roll-out of smart meters and identified a substantial net benefit from the Programme of £5.7 billion for the period to 2030, with the roll-out to non-domestic premises contributing an estimated £2.0 billion.⁷
11. The non-domestic roll-out covers around two million premises. These sites are very varied: they cover both private and public sector organisations, and include small shops, chain stores, small industrial units and schools as well as many other business types.

Background to non-domestic smart metering policy

12. In the late 1990s the Government required that metering should be capable of providing detailed information about energy use for the largest non-domestic sites. A roll-out of advanced meters to medium-sized sites was mandated between 2009 and 2014. In recognition of this existing market, which brings some benefits to customers today, the Government has, so far, taken an approach to rolling out smart meters for the smaller non-domestic sector that is slightly different from that taken for the domestic market.
13. One such difference has been to give energy suppliers the option to use communications services other than those provided by the DCC for any SMETS2 meters they install at non-domestic premises. This policy has generally been referred to as the "DCC opt-out".

Subsequent developments

14. As key technical aspects of the smart metering system design were finalised, the Government engaged with industry to establish how SMETS2 meters could be operated for non-domestic consumers outside of the DCC in smart mode. For this to work, an equivalent of the DCC's communications hub would be needed to enable communications with the meter, and much of the DCC's infrastructure would need to be replicated. For example, to ensure messages are protected in the way that is outlined in the Great Britain Companion Specification (GBCS), an alternative communications provider would need to have the technical capability to create messages in the GBCS format so that they can be read by a SMETS2 meter. The capability to support public key cryptography would also be needed to meet the necessary security standards. BEIS is not aware of any alternative provider that is already able, or is planning, to offer such services.

⁶ See: <https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions>

⁷ See: <https://www.gov.uk/government/publications/smart-meter-roll-out-gb-cost-benefit-analysis>

15. In light of these system developments and through consultation and engagement we understood that some stakeholders were concerned that the DCC opt-out was no longer appropriate, whilst others called for further clarity on the policy position. Given these views and the original commitment to review the policy should issues emerge, the then Government consulted in March 2015, seeking updated stakeholder views and evidence on the appropriateness of the opt-out.

April 2016 Government response and further consultation on the DCC opt-out

16. In April 2016 the Government published its response to the March 2015 consultation alongside a further consultation on its minded-to position to remove the DCC opt-out.⁸ The Government's view was that requiring all SMETS2 meters installed at non-domestic premises to be operated within the DCC infrastructure may help address the wider problems, identified by the CMA in its report published in 2016, that contribute to a lack of effective competition in the energy supply market for small businesses.
17. The April 2016 consultation was formed of two parts. Part A sought specific evidence on the issues that consumers with SMETS2 meters are likely to face when switching between suppliers opted out of the DCC and those opted in; how this would affect their willingness to switch suppliers and their ability to realise smart benefits; and the impact on the non-domestic market. Part A also asked for evidence of firm plans to offer an alternative service equivalent to that operated by the DCC. Part B sought views on proposed amendments to the regulatory framework that would be required in order to implement the removal of the DCC opt-out.
18. Following analysis of the fifteen consultation responses received and subsequent stakeholder engagement, the Government has concluded as set out in its response published alongside this new consultation document, that the DCC opt-out is no longer appropriate, particularly as the evidence supports the position that consumers are unlikely to benefit from the full range of smart metering services if the opt-out is retained. Further, there is no evidence of an alternative provider coming forward to deliver an equivalent service to the DCC. The Government has therefore decided to remove the opt-out and extend the DCC's monopoly under licence to the non-domestic sector.
19. Through the further stakeholder engagement and other emerging evidence and research, the Government has also recognised that there may be a case for adjusting other elements of non-domestic smart metering policy so that it better reflects the diverse nature of non-domestic customers, and the nature of the corresponding energy market services which have developed to service them.

Content of this consultation

20. This consultation consists of three sections:

- The proposal to give large non-domestic consumers an explicit choice between advanced meters and SMETS2 meters, and the draft legal text required to implement it (Section 3);

⁸ See: <https://www.gov.uk/government/consultations/further-consultation-on-non-domestic-smart-metering-the-dcc-opt-out>

- The case for exempting some small non-domestic only suppliers from being required to become DCC Users, and the draft legal text required to implement it (Section 4); and
- The draft legal text required to implement the removal of the DCC opt-out (Section 5).

Structure of each section

21. In general each section of this consultation is split into four parts as follows:

- The first part ('Description of the Issue') sets out the policy approach that provides the basis for the proposed legal text;
- The second part ('Translation into Detailed Requirements') summarises how the policy approach has been translated into the proposed legal text for consultation;
- The third part ('Legal Text') cross-references the proposed approach to the appropriate draft legal text for consultation; and
- The fourth part ('Consultation Questions') sets out the questions to which we invite responses. Most sections include general questions inviting views on the draft legal text for the SEC or licence conditions, as well as views on proposed policy approaches. Some sections include additional questions seeking views on specific topics.

22. Annex A (published with this document) sets out how the draft legal text would look once incorporated into supply licence conditions. The 'in legal effect' version of supply licence conditions can be found via Ofgem's website (footnote)

23. Annex B sets out how the proposed text would look once incorporated into DCC licence conditions; Annex C sets out how the proposed text would look once incorporated in the SEC; and Annex D sets out the draft amendments to Section K of the SEC.

24. Every effort has been made to ensure that the explanatory text in the main body of this consultation document reflects the legal drafting in Annexes A, B, C and D. We have also sought to ensure that the explanatory text provides a clear and simplified overview of our proposals, however the legal drafting changes should be considered to be definitive in the event that there is an inconsistency between these and the explanatory text.

25. The Government response to this consultation will be published once responses received have been analysed. We will then lay the draft legal text before Parliament with a view to implementing the final agreed policy proposals thereafter.

3. Treatment of large non-domestic consumers under the Roll-out Duty⁹

Description of the issue

26. The smart metering mandate uses a site-based definition to identify the sites at which a smart metering system should be installed.¹⁰ This definition means that the smart meter roll-out will reach sites occupied by a diverse range of non-domestic consumers, the majority of which are microbusinesses and small and medium-sized enterprises (SMEs). However, it also covers larger businesses with multiple premises ('multi-sites'), some or all of which are lower energy-consuming sites covered by the mandate.
27. Many of these large multi-site consumers are likely to have had advanced meters installed at their premises covered by the smart metering mandate. To date this has not presented a conflict for suppliers as under the advanced metering exception, advanced meters installed at non-domestic premises count towards suppliers' roll-out obligations. In 2010 the Smart Metering Programme established the principle of an advanced meter exception end date, after which advanced meters installed at non-domestic premises no longer count towards suppliers' roll-out obligations.¹¹ This is on the basis that while advanced metering has brought substantial benefits to consumers, the full benefits of the smart meter roll-out will only be achieved through the installation of SMETS2 meters and their enrolment with the DCC. The advanced metering exception end dates are 21 January 2018 for large suppliers and 21 May 2018 for small suppliers (and advanced meters can continue to be installed beyond the relevant end date where contracts with non-domestic consumers were in place prior to April 2016).
28. Some stakeholders have argued for an extension of the advanced metering exception for large consumers on the basis that this would allow these consumers to choose between an advanced and a smart metering solution. Some multi-site organisations may want to retain a single advanced metering solution across all their sites. For instance, for some consumers there may be commercial and/or operational benefits of a single metering solution versus a mixed metering portfolio. Further, some Meter Operators (MOPs) and other third party service providers are concerned about limitations to their technical ability to deliver SMETS2 services which are comparable to the advanced meter services that they currently provide direct to large energy consumers.
29. The Government assessed the energy market for large consumers. There is evidence of an effective energy supply market for these large consumers (as indicated by the CMA in its energy market investigation) as well as an active market for third party energy services,

⁹ Supply licence conditions require energy suppliers to take all reasonable steps to roll out smart electricity and gas meters to all their residential and smaller non-domestic consumers in Great Britain by the end of 2020, subject to certain exceptions.

¹⁰ The smart mandate requires suppliers to install smart metering systems (or in some circumstances, advanced meters) at premises whose average annual gas consumption is below 732 MWh per year and at all premises in electricity Profile Classes 1-4.

¹¹ See: <https://www.ofgem.gov.uk/publications-and-updates/smart-metering-%E2%80%93-response-prospectus-consultation>

which includes a range of services such as direct contracts for meter procurement, installation and energy consumption data services. Many large, multi-site, non-domestic energy consumers are highly engaged in this energy market and have the resources to make informed decisions on their energy supply and management. As a consequence these consumers are driving a competitive market and benefitting from effective energy services in a way that microbusinesses and some SMEs are not. Some stakeholders have argued in favour of continued consumer choice, which maintains this competition and continues to deliver better commercial and service options. The Government is mindful of proportionate regulation that takes account of market conditions and consumers' needs. The effective market for large consumers and their level of engagement with it indicates that there is potentially a case for giving these consumers explicit choice between advanced and smart meters.

30. The Government has also reviewed the technical issues raised around access to consumers' consumption data and the ability of third parties to commission SMETS2 meters so that they may operate via the DCC. In our view these issues can be overcome. Third parties can access data in various ways, with consent from the consumer, including by becoming a DCC Other User¹² and/or by using a consumer access device.¹³ Smart meter commissioning is achievable with suppliers' cooperation. This is not unprecedented, with third parties and suppliers already required to interact in the advanced meter market. A customer may provide their own meter with their supplier's agreement (which the supplier must not unreasonably refuse)¹⁴. We interpret this to cover the MOP arrangement, i.e. a supplier cannot unreasonably obstruct the customer's wish to provide their own meter via third party MOP services.
31. Nonetheless, given the arguments in favour of giving large consumers a choice and their ability to make an informed decision on metering solutions, the Government is minded to amend the supply licence conditions so that it is clear which consumers the Government expects to be able to make an informed choice about their metering solution. This policy would be implemented by allowing suppliers to continue to offer either advanced meters or SMETS2 meters to qualifying large consumers. Microbusinesses and SMEs would be excluded as these consumers tend to be less engaged and, as evidenced by the CMA, do not benefit from a well-functioning energy market.

Defining large consumers

32. Should the Government decide to implement this explicit choice in the supply licence conditions, it is important that the target large consumer group is clearly defined, not least so that suppliers are able to determine easily and transparently which of their customers the definition applies to and equally customers understand the options available to them. When considering this, our guiding principles are that the definition should cover large multi-site consumers only and it must exclude SMEs and microbusinesses.
33. In the absence of a standard industry definition for large consumers, we reviewed a number of criteria for defining the target group, based on the above principles, including: a minimum

¹² See: <https://www.smartdcc.co.uk/dcc-users/>

¹³ See: [Smart meters, Smart Data, Smart Growth](#) and [Smart Meters and Demand Side Response](#)

¹⁴ See, Schedule 7 in the Electricity Act 1989.

number of premises; organisational size (e.g. >250 employees¹⁵); or whether the consumer owns or leases their meters. However, we rejected these options. Using a 'minimum number of premises' definition is likely to capture the target group of large informed consumers, but it may also capture SMEs. Whilst it is reasonable to assume that larger SMEs, possibly with multiple sites, are more likely to engage, there is no clearly defined threshold for number of employees or number of sites above which consumers are necessarily engaged with their energy management and would achieve benefits from a SMETS2 meter. Further, organisational size (using employee figures) may capture the target group, but it may cause compliance issues if suppliers cannot easily track their customers according to their number of employees. While owning or leasing your own meter is a good proxy for large consumers, on its own this definition may inadvertently exclude large engaged consumers who have actively decided to include meter provision as part of their energy supply package.

34. The Government also considered using an 'annual minimum energy consumption threshold' criterion to define large consumers. In general, high energy consumers spend more on energy and are therefore more motivated to manage their energy use. Therefore, an energy threshold set at an appropriate level is most likely to capture the target group. Compared to the other options considered above, this is thought to be the simplest, most effective method to demarcate large businesses; energy suppliers would be able to track the data and so apply the definition more easily.
35. To determine the appropriate threshold, we considered the available data and engaged with industry (including large non-domestic consumers) to build a picture of energy consumption across the non-domestic sector. In light of this we propose to define large consumers as those with total annual energy consumption across all of their premises of equal to or more than 3GWh electricity and/or 3GWh gas. The electricity threshold of 3GWh has been previously used in the Carbon Reduction Commitment (CRC) scheme to capture large consumers. The same gas threshold is also sufficiently high to capture large and hence more engaged energy consumers, as well as being likely to exclude smaller, less engaged businesses. There is no clear evidence of a lower energy threshold that can be guaranteed to capture relevant consumers, while at the same time being sure to exclude all SMEs and microbusinesses.
36. We are also proposing that, when considering whether or not a consumer meets the 3GWh threshold for electricity and/or gas, the sites of the consumer and their affiliates (i.e. subsidiary companies and holding companies) may also be taken into account. This is proposed so that whether or not an organisation qualifies is not adversely affected by the corporate structure that it chooses to adopt for other purposes. The Government welcomes comments on this approach and any alternative suggestions with supporting evidence on an appropriate energy threshold to capture the target group.
37. Should the evidence suggest that a lower energy threshold is more appropriate, we may consider combining an energy threshold with an additional criterion to mitigate the risk of capturing less engaged smaller consumers under this policy. The Government considers

¹⁵ Large businesses are defined as 250-999 employees, or very large as 1,000+ employees.

that either the minimum number of sites criterion or number of employees' criterion would be most effective and welcomes suggestions with supporting evidence on both of these.

Translation into detailed requirements

38. Implementing this policy proposal would involve making an exception to the roll-out duty so far as it applies to relevant non-domestic premises. This exception would allow advanced meters installed at customers' premises, where the customers' annual energy consumption in Great Britain is more than 3GWh (electricity) and/or more than 3GWh (gas), to count towards suppliers' roll-out obligations. In practice we expect that large consumers will discuss their metering solution options with their supplier and meter operator provider, where they have a direct contract, before making a decision on their preferred solution.
39. The exception would also apply to a non-domestic consumer that is part of a group of companies with an aggregate annual consumption of more than 3GWh electricity and/or more than 3GWh gas. In this context, a group is defined as a number of non-domestic consumers which are related to each other by virtue of being a holding company, subsidiary or subsidiary of a holding company. Where the non-domestic consumer or the wider group has supply contracts with more than one energy supplier, the supplier will need to ascertain whether its customers' overall annual energy consumption, either on its own or as part of a group, means it is captured by the exception.
40. The Government also proposes that the exception should apply when a new connection or replacement meter is required at large consumers' sites. Under existing supply licence conditions suppliers will be required to take all reasonable steps to install a smart metering system for a new connection or replacement meter, following the activation of the New and Replacement Obligation. Although this is not expected to be brought into effect before the end of 2018, for non-domestic suppliers there would be an exception under the 'all reasonable steps' New and Replacement Obligation, which would allow suppliers to continue to install advanced meters instead of smart meters at qualifying premises if the customer so requests.

Legal Text

Annex	Title	Legal Text
Annex A	Supply licence conditions	<ul style="list-style-type: none"> • New exception to condition 39.1 of the electricity supply licence conditions and Condition 33.1 of the gas supply licence conditions (the roll-out duty) that allows suppliers to install advanced meters at qualifying large consumers' premises. • New exception to Condition 39.7 of the electricity supply licence conditions and Condition 33.7 of the gas supply licence conditions (the New and Replacement Obligation) that exempts suppliers from taking all reasonable steps to install a smart meter at new connections or replace an existing meter with a smart meter at the premises of qualifying large consumers.

		<ul style="list-style-type: none"> • New definition of Group in Condition 39.22 of the electricity supply licence conditions and Condition 33.22 of the gas supply licence conditions to ensure that the exception captures non-domestic consumers which form part of a group of companies, which together meet the energy threshold criteria.
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Consultation Questions

Large consumer choice between advanced metering and smart metering solutions.

Q1	<p>Do you agree with the proposal to allow suppliers to offer large non-domestic energy consumers a choice between a smart meter and an advanced meter for the designated premises captured by the smart metering mandate? Please provide evidence and rationale where appropriate to support your response.</p>
Q2	<p>In defining which large consumers should be offered a choice between an advanced meter and a SMETS2 meter:</p> <ul style="list-style-type: none"> • Do you agree that energy consumption is the right criterion to focus on? • Do you agree with the proposed energy threshold as described in paragraph 35 and that it will exclude microbusinesses and SMEs? • Do you agree that the exception should be extended to companies which form part of a group of companies that together meet the threshold? <p>Please provide evidence and rationale to support your response.</p>
Q3	<p>If you do not agree with the proposed energy threshold, which alternative or additional criteria do you suggest, or how else would you propose to define large energy consumers while excluding SMEs and microbusinesses?</p> <ul style="list-style-type: none"> - Minimum number of premises definition; - Organisation size (>250 employees); - Other criteria? <p>Please provide evidence and rationale to support your response.</p>
Q4	<p>Do you agree that the legal drafting in Annex A implements the large consumer exception as proposed?</p>

4. Proposed exemption from the non-domestic DCC User mandate

Description of the issue

41. SMETS2 meters operated via the DCC will ensure that non-domestic consumers with SMETS2 meters can seamlessly switch suppliers without losing their smart benefits. This is particularly important for microbusinesses and SMEs, which are not necessarily engaged energy consumers (unlike large businesses). The removal of the DCC opt-out will be implemented by requiring non-domestic energy suppliers to become DCC Users by 31 August 2018 and to subsequently enrol any SMETS2 meters they install with the DCC.
42. Suppliers that supply both domestic and non-domestic premises are required to become a DCC User by 25 November 2017. The Smart Metering Programme monitors around 34 independent non-domestic suppliers that do not supply domestic customers. No respondents to the April 2016 consultation on the minded-to position to remove the DCC opt-out argued against these suppliers becoming DCC Users. However, our engagement with stakeholders since then indicates that there may be a case for including a DCC User mandate exemption for some suppliers that only supply a small number of designated premises. This is on the grounds that in practice they may not be required to operate a SMETS2 meter in the short term, and until they do it may be unreasonable to require such suppliers to become DCC Users.
43. Energy suppliers, depending on their business model, may supply either domestic consumers or non-domestic consumers or a mix of both. Some energy suppliers may specialise in supplying predominantly large non-domestic Industrial and Commercial (I&C) consumers with multiple premises, some of which are covered by the smart metering mandate. The Government understands that some of these specialist non-domestic suppliers may not in practice be required to operate a SMETS2 meter in the early years of the roll-out for a combination of reasons, including: they have a low number of designated premises covered by the roll-out duty which may already have advanced meters installed; the sites qualify for an advanced meter on technical grounds (e.g. large gas meters or current transformer meters); their large I&C customers may opt for advanced meters across their portfolio of premises. If advanced meters are not installed at these sites in accordance with these conditions, the supplier will have to take all reasonable steps to install SMETS2 meters by the end of 2020.
44. The Government has therefore considered whether there is a case for exempting some non-domestic suppliers that will have advanced meters installed across their portfolio from becoming a DCC User. We have balanced this against our ambition of maximising the benefits of smart metering for microbusinesses and SMEs by requiring that their smart meters are operated via the DCC. The Government assessed options for distinguishing between energy suppliers to larger and typically more engaged consumers and those which supply a mix of all the non-domestic consumer segments. The market intelligence we have

indicates that suppliers who supply up to 1,000 designated premises¹⁶ are more likely to target large consumers with premises outside the scope of the smart metering mandate, whereas most suppliers with more than 1,000 designated premises supply a mix of large and small organisations. If these suppliers were included under the proposed exemption, the likelihood is that more SMEs and microbusinesses would be captured and that these consumers would not be able to access smart benefits.

Translation into detailed requirements

45. The Government is minded to exempt certain non-domestic only energy suppliers from the non-domestic User mandate supply licence condition so that they are not required to become a DCC User. The exemption would apply:
- a. If a supplier supplies 1,000 or fewer designated premises covered by the mandate, at which advanced meters have been installed or will be installed in accordance with the advanced meter exception, proposed large consumer exception (section 3) and technical exceptions. The supplier would have to install advanced meters by the small supplier end date at all of its sites that were not subject to the technical or large consumer exceptions. For sites subject to these exceptions, the supplier would need to install advanced meters there by the end of 2020;
 - b. Until the supplier supplies 1,001 or more designated premises, at which point it would be required to become a DCC User; and/or
 - c. Until a supplier acquires a customer with a SMETS2 meter or installs a SMETS2 meter. In these circumstances, the supplier would have to become a DCC User before they could supply energy to a consumer with a SMETS2 meter. This is to ensure that consumers with SMETS2 meters, particularly SMEs and microbusinesses, retain the full benefits of smart services when switching supplier.
46. Should the Government decide to implement the proposed User mandate exemption, this policy would be kept under review to see if evidence emerges that not requiring all non-domestic suppliers to become DCC Users is impacting on energy consumers or energy supply market competition.
47. Under current supply licence conditions, suppliers to non-domestic premises are not required to replace a smart metering system with another smart metering system¹⁷. However, this situation will be changed by the New and Replacement Obligation (NRO) once it is activated (which is not expected to be brought into effect before the end of 2018). The NRO requires suppliers to install smart meters for all new connections and replacement meters at domestic and non-domestic premises. For the purposes of the NRO, suppliers who qualify for the exemption from the User mandate would not be required to take 'all reasonable steps' to comply with the NRO, but instead they could choose to install another

¹⁶ The data is based on meter numbers; but we have assumed that on average one meter equates to one premise.

¹⁷ See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/66569/6860-foundation-smart-market-consultation-doc.pdf

advanced meter. If the supplier were no longer exempt because it supplies more than 1,000 sites, or it has acquired a SMETS2 meter and therefore had to become a DCC User, then it would be required to comply with the NRO.

Legal Text

Annex	Title	Legal Text
Annex A	Supply licence conditions	<ul style="list-style-type: none"> • New exception to Condition 48 of the electricity supply conditions and Condition 42 of the gas supply licence conditions (User mandates) that would exempt the registered supplier for up to 1,000 designated premises from being required to become a DCC User, where that supplier has installed advanced meters at all designated sites in accordance with the licence conditions.¹⁸ • New exception to Condition 39.7 of the electricity supply licence conditions and Condition 33.7 of the gas supply licence conditions (the New and Replacement Obligation) that would exempt suppliers that qualify under the non-domestic User mandate exception from being required to take all reasonable steps to install a smart meter for new connections or as a replacement at the designated premises that they supply.

Consultation Questions

Exempting small suppliers with up to 1,000 designated premises from the non-domestic DCC User mandate	
Q5	Do you agree with the proposal to exempt non-domestic only suppliers that supply predominantly large energy consumers, as described in paragraphs 43 and 44, from being required to become a DCC User by the proposed non-domestic User mandate date? Please provide a rationale for your views.
Q6	Do you agree that applying the exemption to suppliers with 1,000 or fewer designated premises captures suppliers that supply predominantly large energy consumers and which are unlikely to be required to operate a SMETS2 meter in the early years of the roll-out? Please provide a rationale

¹⁸ See Section 5 for the proposed new non-domestic User mandate.

	for your views.
Q7	For suppliers to be exempt they must also install advanced meters across their portfolio either by the small supplier advanced meter exception end date of 21 May 2018 or by end of 2020 for sites covered by the technical or large consumer exceptions. Do you agree that it is reasonable to expect suppliers with less than 1,000 meters to be able to install advanced meters by the advanced meter end date, with any remaining sites eligible for advanced meter installation by the end of 2020 due to the technical or large consumer exceptions?
Q8	Could this proposal impact negatively on consumers or market competition? Please provide evidence for your views.
Q9	Do you agree that the legal drafting at Annex A implements the small non-domestic supplier exemption from the non-domestic User mandate as proposed?

5. Draft legal text implementing the removal of the DCC opt-out

Description of the issue

48. The DCC¹⁹ infrastructure is live nationwide, enabling energy suppliers to install and operate the new generation of gas and electricity smart meters (i.e. SMETS2 meters) on its systems. It provides centralised data and communications services for SMETS2 meters. The DCC brings various benefits, including ensuring that customers with smart meters can switch supplier easily without losing their smart metering services; the ability for smart metering data to be shared with network companies, facilitating more efficient network management; and the ability for customers to give third parties permission to access their data, for example as part of an energy management or advice service, or to allow tariff comparisons.
49. As set out in the 'Introduction' section above, but summarised here for ease of reference, in April 2016 the Government consulted on its minded-to position to remove the DCC opt-out and require suppliers to non-domestic premises to use the DCC. As well as seeking views on the impact of retaining the opt-out, the consultation set out the proposed actions the Government would take should it decide to implement the removal of the opt-out. Following its decision to remove the DCC opt-out the Government has finalised the actions that need to be taken to implement this. These proposed actions are described in further detail in the next section.

Translation into Detailed Requirements

50. The Government response to the April 2016 further consultation on the DCC opt-out confirms that the removal of the opt-out will be implemented by:

- **Introducing a non-domestic User mandate and Enrolment mandate to suppliers of non-domestic premises.**

This means that suppliers that supply non-domestic premises in electricity profile classes 1 – 4 and/or premises that consume less than 732MWh of gas per annum will be required to comply with the mandates, with a proposed exception for independent, non-domestic only suppliers who meet specific criteria (see Section 4).

The User mandate, as initially set out in the Roll-out Strategy Response 2015²⁰, places an obligation on all domestic energy suppliers to become DCC Users by 25 November

¹⁹ The Government granted Smart DCC Ltd a licence in September 2013 to establish and manage the data and communications network to connect smart meters to the business systems of energy suppliers, network operators and other authorised service Users of the network.

²⁰ See:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450167/Smart_Meters_Rollout_Strategy_Government_response_FINAL.pdf

2017, or such later date as determined by the Secretary of State. In the April 2016 further consultation on the DCC opt-out the Government proposed to align the non-domestic User mandate date with this date. However, it has taken longer than expected to conclude on the removal of the DCC opt-out and it would be unreasonable to expect non-domestic suppliers to become DCC Users by 25 November 2017. Instead, non-domestic suppliers will be required to become a DCC User 12 months from the date of this publication – i.e. 31 August 2018 – or such later date as determined by the Secretary of State. Based on the current timelines for domestic suppliers to become a DCC User, the Government expects that this is a reasonable timeframe for non-domestic suppliers to take the necessary steps to meet this new regulatory obligation. These steps include completing systems testing and privacy audits, and may also include appointing a third party managed service provider to connect to the DCC.

The Enrolment mandate²¹, which currently only applies to domestic premises, does not in itself require suppliers to install SMETS2 meters, but rather requires that any such installed meters are commissioned within the DCC's systems. It came into effect on the date when meters are first capable of being commissioned (i.e. DCC Live), but suppliers that are not a DCC User at this date are exempted until they become a DCC User. The mandate will be extended to designated premises.

- **Making consequential changes to the DCC licence conditions and SEC (Smart Energy Code) to reflect the removal of the DCC opt-out, including:**
 - Amending the definition of Smart Metering System in the DCC licence conditions to align the definition of Designated Premises with that of Domestic Premises to include a Communications Hub.
 - Removing references to the concept of “withdrawal” which currently applies to enrolled SMETS2 meters in non-domestic premises that suppliers wish to opt out.
 - Modifying the DCC licence condition 22, which currently only applies to domestic suppliers, so that the same terms in respect of services provided by the DCC are extended to suppliers of non-domestic premises.

The relevant draft amendments are set out at annexes A, B and C.

51. In the Government response to the April 2016 consultation, published alongside this document, we propose to make changes to the SEC to clarify that DCC opt-out functionality cannot be used. However, the Government has not removed the concept of “withdrawal” and the associated service request functionality (SR8.5 and SR8.6) to opt in and out of the DCC's services from some of the accompanying SEC documentation, such as the DCC User Interface Specification (DUIS). If references to this functionality were removed, the DCC would have to disable the associated service opt-in and service opt-out Service Requests in its systems. The removal of these Service Requests would require a change to

²¹ See:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/484721/15_11_26_December_2015_SEC_Government_Response_final.pdf

both the DUIS and Message Mapping Catalogue (MMC) Schemes and the functionality of the security software. At this stage of the Programme, the DCC is focussed on delivering the changes required to support the SMETS1 and Release 2.0 programmes of work. The Government therefore proposes to leave references to the SMI (Smart Metering Inventory) Status of “withdrawn” and the two Service Requests in the SEC, but render them unused. This would be achieved by having no Eligible Users for the two relevant Service Requests; retaining the concept of the SMI Status of “withdrawn” but state that it is “not used”; and removing references to setting the SMI Status of a Device to “withdrawn” from the code (see paragraph 60 for further details). It is anticipated that this functionality would be removed from the SEC (and DCC Systems) as part of a future scheduled change.

52. The removal of the concept of “withdrawal” means that it is proposed to rename the Inventory Enrolment and Withdrawal Procedures as the Inventory, Enrolment and Decommissioning Procedures. We propose to amend and re-designate this document into the SEC at the same time as the wider licence and SEC changes set out in this consultation take effect.

Amendments to the charging regime

53. The Government response also confirms its intention to simplify the DCC charging regime by extending uniform pricing to non-domestic suppliers, as the removal of the opt-out removes the scope of domestic Users cross-subsidising non-domestic Users, who could choose the service provider according to the most favourable pricing at the relevant location.
54. In addition, whilst making the changes to Section K of the SEC, the Government proposes to standardise the language so that all references to “Designated Premises” are changed to “Non-Domestic Premises” and to clarify that for the purposes of this section, Non-Domestic Premises means Designated Premises. This is to deliver a consistent usage of the terms “Designated” and “Non-Domestic” within this section and it will also align with the terminology used by the DCC in its Charging Statements.

DCC User to non-DCC User churn; engaging with non-domestic consumers

55. One impact of splitting out the domestic and non-domestic User mandate dates is that, for the period between these dates, there could be instances where a consumer switches from a supplier who is already a DCC User to a supplier that is not. In these circumstances consumers with a SMETS2 meter installed may temporarily lose their smart benefits. However, under supply licence conditions, the gaining supplier must take all reasonable steps to clearly explain to the non-domestic customer any variations to their smart metering service, e.g. any potential temporary loss of smart meter benefits.²² This communication should allow consumers to better understand the impacts of switching to a supplier that is not yet a DCC User until the non-domestic User mandate applies.

A note on the DCC User Security Assessment

²² See electricity supply licence condition 51.15(b) and gas supply licence conditions 45.11(b)

56. Users of the DCC must go through the User Entry Process Tests outlined within Section H1.10 of the SEC, this includes the User Security Assessment. Currently the frequency and scope of the User Security Assessment is determined by the role and size of the User, with large energy suppliers subject to a more rigorous annual process than smaller energy suppliers. This is established in Section G8.41 - 8.43 of the SEC and is linked to Smart Metering Systems in Domestic Premises only. Without a change to the SEC, Non-domestic Premises will not contribute to this total.
57. We have considered this topic in relation to the removal of the DCC opt-out for non-domestic suppliers. Due to the nature of the organisations impacted by the removal of the opt-out, in particular the number of customers, we consider that the large majority will fall under the threshold of Smart Metering Systems to be considered for a full annual security assessment, even if it were to apply to Designated Premises. We therefore propose no change to the relevant SEC text.
58. The issue has been discussed with the SEC Panel Security Sub Committee, which has a remit to keep this position under review and propose changes to the SEC should the market structure change significantly.

Legal text

59. The regulatory framework is proposed to be amended in the following way:

Annex	Title	Legal Text
Annex A	Supply licence conditions	<ul style="list-style-type: none"> Condition 48 of the electricity supply licence conditions and Condition 42 of the gas supply licence conditions are extended to require suppliers to Designated Premises to become DCC Users 12 months post publication of this document -- i.e. 31 August 2018 (subject to the exceptions discussed in section 4). Condition 54 of the electricity supply conditions and Condition 48 of gas supply licence conditions are amended to extend the Enrolment mandate to cover all meters installed at Designated Premises.
Annex B	DCC licence conditions	<ul style="list-style-type: none"> Definition of “Smart Metering System” is amended to align with the definitions set out in the gas and electricity supply licence conditions. Licence Condition 18 is amended to reflect the proposed changes to the charging methodology. Licence Condition 22 is amended to extend the same terms in respect of services provided by the DCC to suppliers supplying domestic

		premises to suppliers supplying non-domestic premises.
Annex C	Smart Energy Code	Changes to the following SEC sections to remove the concept of “withdrawal”: <ul style="list-style-type: none"> • Section A • Section C • Section E • Section F • Section H • Section K • Section X
Annex D	Smart Energy Code – Section K	Changes to the following conditions within Section K to reflect the extension of uniform pricing to the non-domestic sector: <ul style="list-style-type: none"> • K3 • K5 • K6 • K10

60. We are proposing to make the changes to licence conditions and the Smart Energy Code identified above through the exercise of the Secretary of State’s powers under Section 88 of the 2008 Energy Act. Prior to exercising these powers, the proposed drafting changes are first required to be laid before Parliament for their consideration and we propose to do this after taking into account the responses to this consultation.

61. In the case of the proposed changes to the SEC subsidiary documents identified below, we are proposing to make the changes using powers under Condition 22 of the DCC licence and Section X5 of the Smart Energy Code. We are inviting views on the proposed changes to the subsidiary documents as part of this consultation and we will consult in due course on the proposed timing of the exercise of the Condition 22/Section X5 powers to make the changes. Our intention is that we would make them so that they coincide with the changes made to the licences and main body of the SEC made using Section 88. The proposed changes are as follows:

Inventory, Enrolment and Withdrawal Procedures

- a. Change the title of the document to “Inventory, Enrolment and Decommissioning Procedures”.
- b. Where reference is made to Section H6, update the section title to “Decommissioning and Suspension of Devices”.
- c. Delete all references to the SMI Status of ‘withdrawn’.
- d. Delete the words ‘Withdrawn’ and ‘Withdrawal’ wherever they are used (including in clause headings).

DCC User Interface Services Schedule

- e. For Service Reference 8.5 (Service Opt Out) change the Eligible Users to “None”, the Target Response Time to “n/a” and the Notes to “Not used”.
- f. For Service Reference 8.6 (Service Opt In) change the Eligible Users to “None”, the Target Response Time to “n/a”, and the Notes to “Not used”, and also remove the tick from the Non-Device Services column.

DCC User Interface Specification

- g. Table 11 (Service Request Matrix), for Service Reference 8.5 (Service Opt Out) change the Eligible User Roles to “none”.
- h. Table 11 (Service Request Matrix), for Service Reference 8.6 (Service Opt In) change the Eligible User Roles to “none”.
- i. In the Service Request Definitions, for Service Reference 8.5 (Service Opt Out) change the Eligible Users to “none”.
- j. In the Service Request Definitions, for Service Reference 8.6 (Service Opt In) change the Eligible Users to “none”.

CH Installation and Maintenance Support Materials

- k. Delete all references to the SMI Status of ‘withdrawn’.

Consultation Questions

Extension of the Enrolment Mandate and DCC User Mandate – consultation on draft legal text	
Q10a	Do you agree that the proposed amendments to the DCC User mandate and Enrolment mandate in the supply licence conditions (Annex A) as drafted will implement the removal of the DCC opt-out?
Q10b	Do you agree that the proposed non-domestic User mandate date 31 August 2018 is an appropriate timeframe for a non-domestic supplier to become a DCC User? Please provide evidence to support your response.
Consequential changes to the DCC Licence, SEC and Supply Licence Conditions – consultation on draft legal text	
Q11	Do you agree that the proposed amendments to the DCC Licence (Annex B), SEC (Annex C) and supply licence conditions (Annex A) will effectively implement the removal of the DCC opt-out, noting the amended definition of Smart Metering System and removal of the concept of “withdrawal”?
Q12	Do you agree with our proposed treatment within the SEC of Service Requests, “Service Opt In” and “Service Opt Out” and the SMI Status of “withdrawn” as set out in paragraph 51?
Amendments to the DCC charging regime – consultation on draft legal text	
Q13	Do you agree that the proposed amendments to the DCC Licence (Annex B) and section K of the SEC (Annex D) will deliver uniform fixed pricing to non-domestic premises?
Legal drafting changes	

Q14	Do you have any comments on the proposed legal drafting changes to the supply and DCC licence conditions, the SEC or on the proposed changes to the SEC subsidiary documents as set out in paragraph 61?
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6. Timing and next steps

62. Stakeholders and other interested parties are invited to provide their views on the draft legal text by 5.00pm on 19 October 2017.
63. The Government also invites stakeholders to meet directly with BEIS officials to discuss this consultation, particularly where stakeholders may wish to share commercial information in confidence to support their views. Please contact Tom Bassindale (tom.bassindale@beis.gov.uk) or Ayesha Mumtaz (ayesha.mumtaz@beis.gov.uk) to arrange a suitable time to meet.
64. The Government response will be published following analysis of consultation responses and conclusion of the policy. In parallel to the Government response the final legal text supporting the policy conclusions are planned to be laid in Parliament and will be incorporated into the regulatory framework following the procedure under Sections 88 and 89 of the Energy Act 2008²³. These amendments will then come into force, subject to no objection being raised in Parliament during the 40 day Parliamentary laying period, and subject to final signature by a Minister.

²³ With the exception of the proposed changes to the SEC subsidiary documents, which will be implemented using powers under Condition 22 of the DCC licence and Section X5 of the Smart Energy Code (paragraph 61).

Annex A: Draft amendments to Supply Licence Conditions text

The amended Gas and Electricity Supply Licence drafting will be published separately alongside this document.

Annex B: Draft amendments to DCC Licence Conditions text

The amended DCC Licence drafting will be published separately alongside this document.

Annex C: Draft SEC Legal Text

The associated SEC legal drafting will be published separately alongside this document.

Annex D: Draft SEC (SECTION K) Legal Text

The associated SEC legal drafting will be published separately alongside this document.

