



Citizens Advice  
3rd Floor  
200 Aldersgate  
London  
EC1A 4HD  
[Citizensadvice.org.uk](http://Citizensadvice.org.uk)

**8 November 2016**

Dear David,

This response was prepared by Citizens Advice. Citizens Advice has statutory responsibilities to represent the interests of energy consumers in Great Britain and welcomes the opportunity to respond to this consultation on [expanding access to the ECOES and DES databases to price comparison services](#).

We welcome the intent of the order which is proposed. However, we encourage the authority to consider including in the order additional protections against misuse of consumers' data. If the permissions created through this order enable inappropriate organisations to get unwarranted access to consumers' data, that could undermine, rather than increase consumer confidence and engagement in the switching process.

We consider that there are two ways which this could be achieved.

### **Method 1 - definition of a PCW**

At the moment the order defines a PCW as follows:

The term PCW has been defined in the Order as a price comparison website, internet-based price comparison service or other internet-based third party intermediary (TPI) that provides comparisons between, and access to, personalised quotes for retail energy to Domestic Customers, and carries out, on behalf of the Domestic Customer an instruction to change the Domestic Customer's supplier, tariff, or both.

**Patron HRH The Princess Royal**

**Chief Executive Gillian Guy**

Citizens Advice is an operating name of the National Association of Citizens Advice Bureaux

Charity registration number 279057 VAT number 726 0202 76 Company limited by guarantee Registered number 1436945 England

Registered office: 3rd Floor North, 200 Aldersgate Street, London EC1A 4HD

For the avoidance of any doubt, the definition of PCW will include online PCWs that operate telephone based comparison services using the same underlying switching platform as their online switching service. Pursuant to the Report, the definition of PCW is limited to PCWs operating in the domestic retail markets.

Based on this definition, we expect that the Order will benefit emerging companies that are involved in identifying best deals for Domestic Customers and completing the switching on their behalf. For the avoidance of doubt, access to ECOES should not be limited to PCWs accredited by Ofgem's Confidence Code. ([Explanatory note paragraphs 23-25](#))

Our concern is that, when it comes to implementing this definition, it in effect means anyone with the ability to build a website or publish a telephone number could claim to be and fit the description of a PCW for the purposes of accessing data. We would prefer to see a more robust definition, and in particular, we disagree with the decision not to use the Ofgem Confidence Code as a means of filtering only responsible parties. We recommend that the authority change this part of the order, to state that access to ECOES and DES should be extended only to Confidence Code accredited parties.

## **Method 2 - reasonable access conditions**

The second way implicit in the draft order to restrict access to data to responsible parties is in the meaning of the phrase 'reasonable access conditions'. In the explanatory note to the order, the phrase covers both practical considerations ("PCWs could be given access to the data through the establishment of ECOES and DES user accounts", [paragraph 19](#)) as well as some judgements around the applying party's compliance with data protection legislation (paragraph 35):

- (i) compliance with data protection legislation;
- (ii) the confidential nature of the information;
- (iii) restrictions concerning the use of ECOES by PCWs (eg requirements to use the data only for the purposes of customer switching);
- (iv) the need to put in place appropriate audits to ensure that PCWs have appropriate organisational and technological processes and procedures in place to keep the data secure; and
- (v) the need to ensure that any fees charged to PCWs are justified by incremental costs, and that any incremental costs incurred in providing PCWs access to ECOES are justified.

In our view, the currently outlined reasonable access conditions are insufficient to prevent unnecessary and potentially malicious attempts to

access consumers' data. To the extent that they rely on data protection legislation, they can only ever penalise wrongdoing after the fact and not impede it in the first place. The definition of reasonable access conditions should be expanded to include:

- Restrictions so that access to DES/ECOES is only made on behalf of a current consumer of the PCW, in relation to a switch being initiated via the PCW. This would avoid PCWs attempting any claim to the entirety of the databases, which we consider an important protection against misuse.
- That data not be retained longer than the time needed to process the switch.

These two restrictions should prevent DES and ECOES from ever being used for data mining to generate targeted advertising lists.

### **Supplemental issues - Citizens Advice access to DES and ECOES**

In addition to the proposals made in this Order, we encourage the CMA and Ofgem to take note of a recent decision by Xoserve to notify the Citizens Advice consumer service that it would be terminating their access to the DES database, both to reinstate access for consumer advisors and to prevent future disruptions to access.

Citizens Advice consumer service operators use DES in order to deliver our statutory advice function. This includes the following aspects:

- Providing advice and guidance to clients
- Referrals to energy companies and the Extra Help Unit
- Resolving erroneous transfers
- Publishing energy supplier performance data

Our advisors use access to DES to check the current supplier in order to give specific advice to consumers on a wide range of issues including their supplier's contact details, the complaints process, the debt process or to assist the client by referring them for additional help and support via a referral to their supplier or the Extra Help Unit.

The loss of access to the DES service will impact our front line advice and referrals to companies or the Extra Help Unit. It will also make the resolution process more lengthy and complex for consumers who've experienced an erroneous transfer. More widely it could impact data for our supplier performance league tables and the accuracy of the data and intelligence used by our policy team and the regulator. At time of writing the issue remains unresolved although discussions with Xoserve are ongoing.

As the CMA is in the process of extending DES and ECOES access to PCWs, it should also amend the draft order to ensure that Citizens Advice's access to DES is restored, and provide an enduring guarantee of its legal permission to freely access both services.

Yours sincerely,

Simon Moore

Policy Manager - Strategic Infrastructure