



Department
of Energy &
Climate Change

Smart Metering Implementation Programme

Further consultation on non-domestic smart
metering: the DCC opt-out

21 April 2016

Smart Metering Implementation Programme

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General information

Purpose of this consultation:

The Government has published alongside this document a preliminary response to Part A of the March 2015 consultation on non-domestic smart metering (the DCC opt-out). This document seeks:

- further evidence on the likely impacts of retaining the opt-out; and
- views on regulatory changes that would be required to operationalise removal of the opt-out, and to protect consumers, should the Government decide to remove it.

Issued: 21st April 2016

Respond by: 27th May 2016

Enquiries to:

Smart Metering Implementation Programme
Department of Energy & Climate Change,
3 Whitehall Place,
London, SW1A 2AW

Email: smartmetering@decc.gsi.gov.uk

Consultation reference: URN 16D/066

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, though further comments and evidence are also welcome.

Responses should be emailed to smartmetering@decc.gsi.gov.uk or posted to the above address.

Additional copies:

You may make copies of this document without seeking permission. An electronic version can be found at <https://www.gov.uk/government/consultations/further-consultation-on-non-domestic-smart-metering-the-dcc-opt-out>

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:

Please note that the Department of Energy and Climate Change (DECC) intends to summarise all responses and place this summary on the GOV.UK website. This summary will include a list of names of organisations that responded but not people's names, addresses or other contact details. In addition DECC intends to publish the individual responses on its website and you should therefore let us know if you are not content for the response or any part of it to be published. If you indicate that you do not want your response published we will not publish it automatically but it could still be subject to information requests as detailed below.

Further, 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 do not want your individual response to be published on the website, or if you want it to be treated as confidential, please say so clearly in writing when you send your response to the consultation. For the purpose of considering access to information requests 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.

Quality assurance:

This consultation is being run 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:

DECC Consultation Co-ordinator
3 Whitehall Place
London SW1A 2AW

Email: consultation.coordinator@decc.gsi.gov.uk

Introduction

Non-domestic smart metering

1. The Government is committed to ensuring that every home and small business in the country is offered a smart meter by the end of 2020, delivered as cost effectively as possible. 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 all smaller non-domestic consumers the opportunity to engage with their energy use and make savings on the basis of better information about their consumption. Smart meters will bring an end to estimated billing. Robust interoperability is essential to support government objectives on easier and faster switching, ensuring that a competitive energy supply market can be fostered. Smart metering will underpin the transition towards a smarter energy system, for example by providing the functionality that supports time of use tariffs, and enabling non-domestic consumers to access the benefits this can provide them should they wish to.
2. Energy suppliers are responsible, under their standard licence conditions of electricity and gas supply (the 'Supply Licence Conditions'),¹ for rolling out smart meters. The Government's role is to provide the right framework and milestones against which they can plan.
3. The non-domestic roll-out will cover around three million meter sites.² These sites are varied: they include both private and public sector organisations, and range from small shops to chain stores, from small industrial units to schools. The Programme's economic impact assessment forecasts net benefits in the non-domestic sector of around £1.9 billion.³

March 2015 consultation on non-domestic smart metering

4. Between March and June 2015 the Government consulted on two issues relating to the roll-out of smart and advanced meters to the non-domestic sector: the advanced metering exception end-date and the Data and Communications Company (DCC) opt-out.⁴

The advanced metering exception end-date

5. The Government responded to the consultation in relation to the advanced metering exception on 17 December 2015, confirming that the period in which advanced metering

¹ See: www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions

² Licence conditions require energy suppliers to install smart metering (or in some circumstances, advanced metering) to gas sites where average annual consumption is below 732 MWh per year and all electricity sites in Profile Classes 1-4 (the majority of non-domestic electricity consumers are in profile classes 3 and 4).

³ DECC (2014) *Impact assessment: Smart meter roll-out for the domestic and small and medium non-domestic sectors (GB)*, available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/276656/smart_meter_roll_out_for_the_domestic_and_small_and_medium_and_non_domestic_sectors.pdf. Appraisal period 2013-2030.

⁴ See: www.gov.uk/government/uploads/system/uploads/attachment_data/file/415040/Non-domestic_consultation_March_2015_final.pdf

may be installed would be extended from 6 April 2016, to 28 April 2017 for large suppliers; and 17 August 2017 for small suppliers. It was also confirmed that suppliers will be eligible to install advanced meters after the end-dates noted above where a contractual agreement is in place prior to 6 April 2016.⁵ The regulatory amendments to give effect to these changes came into force on 30 March 2016.

The DCC opt-out

6. The Government is publishing its preliminary response in relation to the DCC opt-out alongside this further consultation.⁶ The Government's response summarises the consultation responses received and explains that the Government is minded to remove the DCC opt-out subject to further evidence gathering and assessment. This consultation is part of this evidence gathering process.
7. The Government's response makes clear that we may retain the opt-out if this consultation finds robust evidence that:
 - a. services equivalent to those provided by the DCC will be forthcoming; or
 - b. a lack of interoperability would not affect non-domestic consumers' willingness to engage with the energy market and, for example, switch supplier when this would be in their interest.
8. Should the Government decide, following this consultation, to remove the DCC opt-out, the existing regulatory framework would need to be amended to reflect its removal and to ensure that the framework is consistent with the requirement for all SMETS2⁷ meters to be enrolled⁸ in the DCC. We have undertaken a review of the framework to identify the modifications that would be needed to implement any decision to remove the opt-out, as well as to ensure that the DCC did not abuse its monopoly position should the opt-out be removed.

Scope of this consultation

9. Part A of this document seeks further evidence on:
 - a. Firm plans for the development of services that could provide full functionality, equivalent to that provided by the DCC, for SMETS2 meters operated outside the DCC;
 - b. the impact on consumers of retaining the DCC opt-out, particularly when switching between opted-in and opted-out suppliers.
10. Part B identifies the main amendments to the regulatory framework that would be needed if the Government decided to remove the DCC opt-out and invites views on the proposed approach.

⁵ See:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/486136/AME_consultation_response_FIN_AL.pdf

⁶ <https://www.gov.uk/government/consultations/consultation-on-non-domestic-smart-metering>

⁷ Smart Metering Equipment Technical Specifications (SMETS) : the document brought into force by the Secretary of State to describe the minimum capabilities of equipment installed to satisfy the roll-out licence conditions. See: <https://www.gov.uk/government/consultations/smart-metering-equipment-technical-specifications-second-version>

⁸ This means that all installed SMETS2 meters would be required to be commissioned within the DCC systems.

Part A: Further evidence requirements

The need for further evidence

11. The Government is minded, subject to any new evidence from this consultation, to amend its policy which currently allows suppliers to use communications services other than those provided by the Data and Communications Company (DCC) for any SMETS2 meters they install at non-domestic premises that are subject to the smart metering roll-out obligation.

Alternative providers

12. Four respondents to the March 2015 consultation were of the view that smart metering communication services would be, or would be likely to become, available from alternative providers to enable the satisfactory operation of SMETS2 meters if opted-out of the DCC. However, none of the responses cited specific examples that would provide confidence that services equivalent to those provided by the DCC will become available. Such services would ensure, for instance, that customers with smart meters can switch easily between suppliers using the DCC without losing their smart metering services.

Consultation Questions

1	Are you aware of any firm plans for providing communication services equivalent to those operated by the DCC that would enable the full range of smart meter benefits to be delivered, including arrangements for ensuring equivalent security and meter interoperability between such providers and between these providers and the DCC during change of supply? If so, please cite specific examples, indicating likely timescales and whether the information needs to be kept confidential.
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Consumer impacts and market competition

13. The Government's vision (set out at paragraph 1 above) for the role of smart metering for smaller non-domestic consumers is that it should support the Government's objectives on faster more reliable switching. Faster switching, which smart metering can enable, could play an important part in removing the barriers to microbusiness engagement in the non-domestic energy market. In its ongoing energy market investigation, the Competition and Markets Authority (CMA)⁹ has provisionally found that a low level of consumer engagement in the microbusiness sector is one of the barriers to effective competition.

14. Therefore, we are seeking evidence on the issues that consumers with SMETS2 meters are likely to face when switching between opted-out and opted-in suppliers and how this would affect the non-domestic market. Consumers in this position are expected to require a site visit on change of supplier as they are likely to need to have metering equipment replaced, resulting in disruption and costs, including those related to

⁹ https://assets.digital.cabinet-office.gov.uk/media/559fc933ed915d1592000050/EMI_provisional_findings_report.pdf

temporary interruption in supply if power is switched off to allow installation of a new meter. More broadly, consumers switching from an opted-in to an opted-out supplier or vice versa and potentially between opted-out suppliers may lose some smart meter services. This could potentially discourage consumers from switching suppliers and engaging in the market.

Consultation Questions	
2.	<p>a) Do you agree that the need for a site visit would have a significant impact on small businesses' willingness to engage with the market and switch supplier, in comparison with a situation where there was full interoperability?</p> <p>b) We would also welcome views on any other potential impacts on non-domestic consumers if the opt-out is retained?</p>
3.	<p>What impact would removing the opt-out have on the competitiveness of the non-domestic supply market? Please be specific about how the opt-out would affect the energy market and which sectors would be affected.</p>

Part B: Changes to the regulatory framework required to remove the DCC opt-out

Implementation Approach

15. The Government proposes that, should it decide to remove the DCC opt-out, it would do so by extending the domestic enrolment and user mandates in the energy supply licence conditions to cover non-domestic premises. We have also considered what consequential amendments to the DCC licence conditions, energy supply licence conditions and the smart energy code (SEC) would be appropriate to implement a decision to remove the opt out.
16. In addition to identifying specific changes that would be needed to the regulatory framework, we have undertaken a review to provide reassurance that the protections currently in place to prevent the DCC from abusing its monopoly position (see paragraphs 30 – 38) are sufficient. As part of this we have considered whether changes to the DCC charging regime would be appropriate, as it was designed on the assumption that non-domestic DCC Users could opt out. We propose that, should the Government decide to remove the opt-out, this regime be amended accordingly.
17. We are seeking views on this proposed approach and specifically views on what changes to the regulatory framework would be needed in removing the opt-out and ensuring that appropriate protections are in place. We will consult on legal text following the Government's response to this consultation.

Removing the DCC opt-out

Extending the Enrolment Mandate

18. In its Response¹⁰ to the July 2015 SEC Consultation¹¹ the Government announced its decision to introduce an Enrolment Mandate for all SMETS2 meters installed in domestic premises. The Enrolment Mandate will come into effect on the date on which meters are first capable of being commissioned (i.e. DCC Live). Suppliers that are not a DCC User at this date will be exempted until they become a DCC User. The Enrolment Mandate does not in itself require suppliers to install SMETS2 meters but, rather, to require that any such installed meters are commissioned within the DCC systems.
19. Should the Government decide to remove the DCC opt-out, the Enrolment Mandate would be extended to cover SMETS2 smart metering systems at all non-domestic premises that are subject to the smart metering roll-out obligation.

¹⁰ See:

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

¹¹ See:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/446617/15_07_17_Summer_2015_SEC_and_Supply_Licence_Consultation_Doc_Final_revised_version.pdf

Extending the User Mandate

20. The Government also set out in the Roll-out Strategy Response 2015¹² its intention to introduce an obligation for all domestic energy suppliers, not subject to the Early Roll-out Obligation (ERO), to become DCC Users by 17 August 2017 or at a later date as determined by the Secretary of State. Draft supply licence conditions were published for consultation on 25 February 2016. The User Mandate will ensure that consumers who have had a SMETS2 meter installed can continue to receive smart services if they choose to change supplier.
21. The DCC User Mandate for domestic suppliers will continue on an enduring basis so that suppliers entering the market on or after 17 August 2017 will be required to become DCC Users before they supply gas or electricity to customers.
22. Should the Government decide to remove the DCC opt-out, the User Mandate would be extended to all suppliers with premises that are subject to the smart metering roll-out obligation. It would apply from the same date as that for domestic suppliers, i.e. 17 August 2017, or at a later date as determined by the Secretary of State. We recognise that it may be some time before suppliers with a large proportion of advanced meters in their portfolios are able to fully benefit from being DCC Users. We have considered options that would allow some suppliers in this position to delay becoming Users. Such options include requiring suppliers to become Users by August 2017 if they have traditional meters in their portfolios, i.e. if they have meter sites subject to the rollout obligation where advanced meters or SMETS1 meters are not installed. Another option considered would require suppliers to become Users by only 2020 or before installing a SMETS2 meter or acquiring a customer who has one.
23. While these options could allow some additional flexibility to suppliers, switching issues would continue for longer between users and non-users of the DCC. Further, the alternative options present a risk that, because of gaps in industry data, non-User suppliers could inadvertently accept customers with SMETS2 meters on churn. This would result in a poor switching experience and loss of smart meter benefits. We therefore concluded that providing the clear cut of date of August 2017 would be more effective in supporting the delivery of fast, effective switching for non-domestic consumers.

Consequential licence condition changes

24. A number of defined terms used in the energy supply licence conditions, the SEC and the DCC licence conditions were defined to reflect the expectation that some non-domestic smart meters would be operated outside the DCC and that some enrolled meters could be withdrawn and operated outside the DCC. These would be amended.

Supply licence conditions

25. Energy supply licence conditions provide a different definition for Smart Metering Systems in Domestic Premises and Designated (i.e. small non-domestic) Premises. For the former, it also includes a DCC Communications Hub while this is not the case for the

¹² See: www.gov.uk/government/uploads/system/uploads/attachment_data/file/450167/Smart_Meters_Rollout_Strategy_Government_response_FINAL.pdf

latter. This difference was based on the assumption that non-domestic SMETS meters operating outside the DCC would not require a DCC Communications Hub. The definition would therefore need to be aligned to include a DCC Communications Hub for all Smart Metering Systems should the DCC opt-out be removed.

DCC licence conditions

26. We have identified two elements of the DCC licence conditions that would be changed to reflect a removal of the opt-out.
- i) The definition of Smart Metering System (SMS) would need to be amended, as described above in relation to the supply licence conditions, to align the definition of Designated Premises with that of Domestic Premises to include a Communications Hub.
 - ii) Condition 18 on the Charging Methodology for Service Charges requires that Services Charges for Mandatory Business Services (other than Elective Communications Services) do not distinguish between consumers at premises in different parts of Great Britain, but does not require this for non-domestic premises. We propose that, should the Government decide to remove the opt-out, this element of the regime be amended to extend uniform prices to non-domestic premises, as discussed in more detail in paragraphs 39 to 43 below.

Smart Energy Code

27. We would amend several elements of the SEC should a decision be taken to remove opt-out:
- i) Section K would be changed to remove regional pricing, as discussed in more detail in paragraph 42 below;
 - ii) Several detailed changes would be needed to remove reference to the concept of “withdrawal”, which currently applies to enrolled SMETS2 meters in non-domestic premises that suppliers wish to opt-out.

Consultation Questions on changes to the regulatory framework required to remove the DCC opt-out	
4.	Do you have any comments on the Government’s proposal that, if it decides to remove the DCC opt-out, this should be done by extending the Enrolment and User mandates to cover non-domestic premises? Please provide a detailed explanation if you disagree with the proposal.
5.	Do you agree that the supply licence conditions, the SEC and DCC licence conditions would need to be amended as described in paragraphs 24 to 27 above? If not, please provide a detailed explanation for your views.

Controls on DCC's Activities

Introduction

28. The Government's proposed changes to the regulatory framework would mean that the DCC's monopoly in respect of the provision of the smart meter communications service for domestic consumers would be extended to the non-domestic sector so that all suppliers subject to the smart metering roll-out obligation would be required to use the DCC. This carries the potential risk of the DCC abusing its monopoly position by offering poorer services or demanding higher prices for services.
29. Robust protections for consumers are already a feature of the controls on the DCC's activities. The controls in place were intended to reflect the DCC's monopoly position in respect of domestic premises and in the expectation that energy suppliers would also use DCC's services for the majority of non-domestic premises. To ensure that these controls would remain sufficient in the event of the removal of the opt-out we have undertaken a review of the protections. We are seeking views on our conclusion that the current arrangements are robust and that they would apply equally to non-domestic consumers.

Regulatory Framework

30. The DCC's activities are controlled by the terms and conditions of its licence (the DCC Licence)¹³ which was granted by DECC on 23 September 2013 under the Gas Act 1986 and Electricity Act 1989 and modified using Section 88 of the Energy Act 2008. The DCC's compliance with the DCC Licence is subject to the regulatory oversight of Ofgem whose principal objective in carrying out its functions is to protect the interests of existing and future energy consumers. The Government's approach has been to ensure that the DCC provides sufficient transparency on its costs and activities to both Government and industry partners, to enable all parties engaged in the smart metering roll-out to deliver effectively.
31. The key elements of the framework are as follows:
- a. Requirements in the DCC Licence for the DCC to meet both interim and enduring general objectives;
 - b. The DCC price control regime; and the linked
 - c. Implementation and operational incentive regime; and
 - d. Requirements that prohibit the DCC from restricting, preventing or distorting competition.
32. The DCC's Interim General Objective in condition 5 of the DCC Licence requires it to 'contribute (taking all reasonable steps for that purpose) to the achievement of a full, timely, efficient, economical, and secure Completion of Implementation'. The purpose of this objective is ensure the DCC delivers the core data and communication systems and enables the wider programme to commence the main installation stage of the SMIP.

¹³ See: <https://epr.ofgem.gov.uk/Content/Documents/Smart%20DCC%20Limited%20-%20Smart%20Meter%20Communication%20Consolidated%20Licence%20Conditions%20-%20Current%20Version.pdf>

33. Its Enduring General Objectives focus on the carrying on of the Mandatory Business in the manner that is most likely to ensure the development, operation, and maintenance of an efficient, economical, co-ordinated, and secure system. It is also required to do so in a manner that is most likely to facilitate effective competition in energy supply; innovation in the design and operation of energy networks; and the reduction of charges for its Mandatory Business Services through the provision of value added services.
34. Under the price control regime Ofgem assesses the DCC's costs each year to make sure consumers continue to receive value for money. Ofgem currently operates an ex-post regime and reviews the DCC's costs after they have been incurred. If the DCC's costs differ materially from those predicted in its business plan, it must explain and justify to Ofgem the differences to show that it incurred the extra costs economically and efficiently. Where costs have not been fully justified, Ofgem may decide to disallow these or, if they are predicted costs, Ofgem may decide to adjust the revised projections downwards.
35. The DCC's regulatory incentive regime is also set out in the DCC Licence and provides a risk-reward framework for both its implementation and operational activities. The 'Implementation Milestones' provide a set of delivery requirements for the DCC through to commencement of live enrolment and communication services and are aligned with its Interim General Objective (defined in the DCC Licence). The operational regime is yet to be defined and will commence once the implementation phase is complete. Ofgem is responsible for this element of the regime and plans to consult shortly.
36. Performance against the incentive regime is also assessed by Ofgem on an annual and ex-post basis in line with its price control activities and applies to services for both non-domestic and domestic meters.
37. Condition 11 of the DCC Licence sets out duties arising from the DCC's special position as monopoly provider of communications services for domestic smart meters. These duties include a general requirement in relation to competition, which requires the DCC to operate its Authorised Business, including the provision of communications services for non-domestic smart meters, in a way that does not restrict, prevent or distort competition. DCC Licence condition 11 also prohibits the DCC from giving or receiving cross-subsidies, and from unduly preferring itself over, or unduly discriminating against, anyone or any class of persons when carrying on its activities generally.
38. After considering the provisions described above, we are confident that they are robust and sufficient to prevent the DCC from abusing its monopoly position even if the opt-out were removed.

DCC charging regime

39. The March 2015 consultation committed the Government to consulting on aligning the DCC's charging regime for domestic and non-domestic smart meters if the DCC opt-out were removed. We are seeking views on this now ahead of a final decision on the opt-out and consultation on the legal drafting.
40. The DCC charging regime is designed to ensure the recovery of the revenue that is allowable under the price control licence conditions via a mixture of fixed (per meter) and explicit (usage) charges to SEC Parties that are consistent with the charging objectives set out in the DCC Licence. The overall level of revenue required by the DCC is overseen by Ofgem under the price control regime described above. The suite of controls within the price control and charging regime apply to the entire DCC business covering both domestic and non-domestic premises.

41. The current DCC fixed per meter charges are uniform for domestic premises and vary by region for non-domestic premises. In the domestic sector, uniform or ‘postage’ pricing was introduced to ensure that domestic energy customers have access to smart metering services regardless of location within Great Britain. It was introduced at a time when it was thought that customers in some locations could be much more expensive to serve. Under the opt-out there was a perceived risk that non-domestic suppliers would seek to use DCC services in locations that were more expensive to serve and use alternative communications providers in less expensive areas, effectively resulting in a cross subsidy from domestic to non-domestic consumers. This risk would no longer exist if the DCC opt-out was removed.
42. The current approach of imposing regional pricing for non-domestic meters is more complex for the DCC and suppliers to administer, adding to costs. If the Government decides to remove the DCC opt-out, we propose extending uniform pricing to the non-domestic sector by amending:
- i) DCC Licence condition 18.15 regarding the charging objectives in the DCC licence so that it covers all premises and not just domestic premises; and
 - ii) Section K of the SEC (the charging methodology) to remove regional pricing for non-domestic premises and therefore the associated complexities.
- It is likely that the implementation of the new regime would be aligned to the start of the Regulatory Year from 6 April, 2017.
43. The current basis of fixed cost charging for non-domestic meters according to number of enrolled smart meters would not be changed.

Consultation Questions on measures we would take to protect consumers of service

7.	Do you agree that the controls currently in place in the DCC Licence to prevent the DCC from abusing its monopoly position are sufficient in the event that the Government extends the DCC’s monopoly to cover the non-domestic market? If not, please identify specific areas of concern.
8.	Do you agree that, in the event of the Government removing the DCC opt-out, the Government should extend uniform fixed pricing to non-domestic premises? If not, please identify specific areas of concern.

