



Smart meter Implementation Programme
Department of Energy and Climate Change
3 Whitehall Place
London
SW1A 2AW

November 2011

Dear Sir/ Madam

RE: FSB's response to the Draft Licence Conditions for a Code of Practice for the Installation of Smart Meters

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to the Government's Consultation *Smart Metering Implementation Programme – Licence Conditions for a Code of Practice for the Installation of Smart Electricity and Gas Meters*.

The FSB is the UK's leading business organisation. It exists to protect and promote the interests of the self-employed and all those who run their own business. The FSB is non-party political, and with in excess of 200,000 members, it is the largest organisation representing small and medium sized businesses in the UK.

Small businesses make up 99.3 per cent of all businesses in the UK, and make a huge contribution to the UK economy - contributing 51 per cent of the country's GDP and employing 58 per cent of the private sector workforce.

We trust that you will find our comments helpful and that they will be taken into consideration.

Yours sincerely,

[Redacted signature block]

[Redacted contact information]



Federation of Small Businesses
The UK's Leading Business Organisation



**FSB's response
to the
Consultation on
the Licence
Conditions for a
Code of Practice
for the
Installation of
Smart meters**

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Introduction

The FSB welcomes the opportunity to respond to the *DECC Smart Metering Implementation Programme – Licence Conditions for a Code of Practice for the Installation of Smart Electricity and Gas Meters*.

The FSB broadly supports the direction of policy as set out in the draft Licence but has some serious reservations regarding specific aspects of the Licence and how they will be manifested in the industry-led Code. In particular, the FSB has grave concerns about the current draft where it does not offer small businesses the same protection as domestic consumers.

The FSB is relaxed about whether there is one Code of Practice (Code) for domestic and small business users, or two separate Codes, but we urge DECC to recognise the similarities between the two groups. It appears as though there is an assumption running through the Licence that small businesses can look after themselves. However, in reality micro and small businesses – particularly the former – typically behave like domestic users in the energy market. They don't enjoy the bargaining power of large users, they often don't have the resource to commit to finding the best deal, and, like domestic users, they face a lack of knowledge about the sector and the products and services available to them: 18 per cent of small businesses are concerned about their limited knowledge in respect of the energy options available to their business; the same number are concerned about their limited knowledge and understanding of their energy contracts.

We address our specific concerns in response to the questions below.

1. Are the overall objectives set out in the draft licence conditions appropriate?

The FSB broadly welcomes the principles and objectives underpinning the Code, as set out at 2.2.4. However, we would like DECC to offer more clarity regarding what is meant by “reasonable expectations”. It may be appropriate to provide separate explanations for the domestic and small non-domestic sectors, given their different needs. For the latter, “reasonable expectations” will relate to minimised disruption to business operations, reasonable efforts on the part of the supplier to offer sufficient notice and choice regarding the date and time of an appointment.

The FSB also has very serious concerns about small businesses not having the same protections against “unwelcome sale activities during the installation visit”. For the reasons set out above, the FSB urges DECC to apply the same protections to small businesses. We address this further in our response to question 9.

2. Would the licence conditions as drafted effectively underpin:

- a) the respective roles of Ofgem and suppliers in establishing and reviewing Code(s) of practice for domestic and micro-business sites?**
- b) an appropriate ongoing governance regime for the Code(s) of Practice?**
- c) the intended arrangements for monitoring and compliance with Code(s)?**

The FSB believes the conditions do broadly provide clarity regarding the respective roles of Ofgem and suppliers in establishing and reviewing the Code(s), however, whilst the FSB in general supports Government's position that suppliers are best placed to develop the Code(s), we must stress how critical it is that wide consultation with



stakeholders is undertaken and that Ofgem are satisfied that the relevant stakeholders have had the opportunity to influence the Code(s). Regarding the suppliers' decision to determine whether a separate code for small businesses is produced, the FSB has some misgivings. The FSB is not convinced that suppliers will secure a fair outcome for the small businesses sector as it will be in the suppliers' interest to offer less protections for small businesses, where this might generate additional revenue, for example, in relation to sales and marketing activities.

We believe DECC are best placed to balance consumer needs and interests against the costs and objectives of the policy. However, the process (whether there are two Codes or one) is less important if the outcomes are the same. Should DECC allow suppliers to make the decision regarding whether there is a separate Code for small businesses, it must, with Ofgem, ensure that proper protections are still in place for the small business sector.

In terms of communicating the Code to consumers, the FSB urges DECC to consider a comprehensive communications plan, taking into account the different needs of consumers. For example, it will be important to ensure that consumers who lack internet connectivity are not ill-informed about the smart meter programme as a result (9% of small businesses cannot access broadband across any of their sites and 22% cannot access broadband at at least one of their sites). The FSB is very keen to assist in the development of a communication plan and to assist in dissemination, where appropriate.

Regarding implementation of the Code, the FSB would like to see a clear commitment from DECC and Ofgem regarding timing. The FSB notes the expectation for the new licence conditions to be in place in the first half of 2012 but would also like to see a firm commitment regarding when the Code will be formally adopted. The FSB is concerned that until that time consumers will not be offered the appropriate protections despite suppliers beginning their roll-out.

Questions 3-7, applying to domestic consumers, not addressed here

8. Do you agree that, for the purposes of the non-domestic code, the sites to be covered should be defined as business with no more than 10 employees or their full-time equivalent, an annual turnover that does not exceed €2 million, or consumes less than 50MWh of electricity a year or less than 200MWh of gas a year?

At some point in the Code it will be appropriate to set out what a small business is. For the purpose of consistency, the FSB would support use of the definition used by Ofgem, i.e. meeting one of the following criteria:

- Consumes less than 200,000 kWh of gas a year, or
- Consumes less than 55,000 kWh of electricity a year, or
- Has fewer than 10 employees (or their full-time equivalent) and an annual turnover or annual balance sheet total not exceeding €2m.

The FSB agrees that this should be a "minimum requirement" and would hope to see suppliers extending the agreed Code to small businesses more widely, i.e. those with less than 50 employees.



9. Would the licence conditions as drafted effectively underpin the policy intentions with respect to non-domestic consumers on customer information and advice and undue inconvenience?

Customer information and advice

The FSB welcomes the conditions in the licence for the provision of information and advice, to ensure that small businesses have the necessary knowledge required to realise the benefits of their smart meter. Related to this though, we would like to see something in the licence agreement that requires suppliers to explain ahead of the appointment how this information is to be delivered, how long it is expected to take and to give the customer the option to opt out of a tutorial but instead be provided with sufficient material in paper or electronic form.

Avoiding inconvenience to customers

The FSB very much welcomes the additional conditions in the draft non-domestic Licence requiring suppliers to ensure that “as far as possible, installations take into account customers’ business processes and the need to avoid undue interference with them.” The FSB notes DECCs intention not to set out “detailed requirements” in this area, but urges DECC to consider minimum standards, at least. The FSB would be happy to act as a sounding board in respect of this and lists below a number of considerations for DECC:

- Customers should receive notification at least 8 weeks prior to the installation visit that their meter is to be replaced, what this will involve and when this is expected to be.
- Customers should be offered appointments that do not cause undue inconvenience and should be offered appointments outside of normal business hours.
- Customers should be notified, ahead of the appointment, how many engineers will attend the premise.
- Customers should be notified, ahead of the appointment the period of time the installation is expected to take.

The FSB has serious concerns about the conditions and requirements that are absent from the non-domestic licence, more specifically sales and marketing conditions and upfront charging.

Sales and marketing

There seems to be an assumption running through the draft licence that small businesses can look after themselves and therefore don’t require the same protections as domestic consumers. The FSB strongly argues this point. As referred to earlier, recent research by the FSB highlighted the degree of concern among small businesses regarding their lack of knowledge in the energy sector. Small businesses, which are typically time-poor and limited in their resources, aren’t able to commit the levels of resource large businesses can to understanding the market and finding the best deal.

Whilst the draft licence conditions for domestic installations preclude sales and marketing at the point of installation without prior consent, there is no such protection for small businesses



At a time when utilities bills are putting significant pressure on small businesses margins – almost six in ten small businesses say that utilities is one of the main causes of inflating overheads – small businesses should be afforded the same “choice” domestic customers receive about whether or not they wish to receive sales or marketing and should be given the same protections from hard-sales and risks of mis-selling that domestic customers receive.

Not only is it important that small businesses are protected from inappropriate or pressured sales and marketing, it is also critical that DECC is committed in the Licence conditions to ensuring minimum disruption and inconvenience for consumers. As such DECC must recognise that small businesses will wish for the installation visit to be as quick and efficient as practicable and might therefore wish to avoid sales and marketing, particularly where it leads to further disruption. The FSB urges DECC to amend the draft Licence so that small non-domestic customers enjoy the same protections as domestic customers in respect of sales and marketing and strengthens its commitment to ensuring that customers inconvenience is kept to a minimum.

The FSB also urges DECC to include, explicitly, the condition that prior consent for sales and marketing must be “written”. We acknowledge that this might create some administrative burdens for the suppliers, but it is critical to ensure that the system is not open to abuse.

Related to this, the FSB believes that the definitions of sales and marketing in the draft Licence are currently too vague and that DECC should tighten the drafting to provide greater clarity and ensure the licence isn't open to interpretation.

Upfront charging

The FSB is strongly opposed to charges for the meter or installation falling upon the customer, particularly since the customer does not have the choice to opt out. Also, given the huge benefits that the suppliers are gaining from the installation of smart meters (i.e. in obtaining data and carrying out operations remotely, and therefore reducing their administrative costs) the FSB believes this should be reflected in who pays. If however customers are expected to share some of this cost, the FSB urges DECC to allow small businesses to pay for the meter and installation over a period of time, through their energy bills. Small businesses already face significant pressures on their cash flow - 4,000 businesses closed in 2008 not due to losses, but due to poor cash flow¹ – so there should be appropriate protections in place to ensure that the businesses are not faced with any upfront costs.

The FSB would also like DECC to specify in the Licence a minimum period over which the business is able to pay for the cost, to ensure that their energy bills are not unreasonably inflated.

In Home Displays

Whilst the FSB does not support the decision not to mandate IHDs in non-domestic properties as well as domestic properties, we are keen to ensure that small businesses are still able to play their part in achieving the Government's objectives for the smart meter programme and ensuring that they become more energy efficient. For this they must have the right tools and knowledge. If small businesses don't have access to IHD it is crucial that they have instead

¹ <http://www.creditmanagement.org.uk/media/BIS-R5088-PayOnTime-WEB.pdf>



free and ready access to their energy consumption data. Whilst this is not for the Installation Licence per se, the FSB would like to ensure that DECC is giving sufficient thought to how this might be achieved.

The FSB acknowledges that some of the amendments called for above may create an additional administrative burden on suppliers; however, we strongly believe that given the amount the suppliers will benefit from the smart meter programme, particularly in terms of the costs savings suppliers will achieve by collecting data and carrying out operations remotely, it is fair that the suppliers must carry some of the cost of ensuring that the programme is fair, transparent and appropriate at all times.

For further information

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