

Smart Metering Implementation Programme
Haven Power Response to DECC Consultation URN 12D/030
A consultation on the draft DCC licence and licence application regulations.

1. Do you agree with the structure and content of parts 1 and 2 of the licence?
2. Do you agree with the proposed list of licence revocation events, in particular do you agree with the inclusion of revocation triggers linked to:
 - i) A failure of the DCC to comply with an enforcement notice issued under Section 40 of the Data Protection Act;
 - ii) A contravention of the licence condition or statutory requirement in a manner so serious as to make it inappropriate for the licensee to continue to hold the licence;
 - iii) A contravention of the independence Condition 9; and
 - iv) The licensee no longer being, or never having been, a fit and proper person to carry out the Authorised Activity?

We believe that contravention of the second general objective of the Licensee (Condition 5B of the draft Licence) is a revocation event. The facilitation of effective competition in the energy supply market is a fundamental objective of the DCC and should it fail to achieve genuine interoperability of smart metering then its licence should be revoked.

3. Do you agree that the DCC licence should be issued for a fixed-term only?

Yes. A fixed term provides certainty to the incumbent DCC, any prospective DCC, and other stakeholders that a perpetual arrangement cannot. In order to minimise the risk of not having a DCC options should be developed such as running the licence application in advance of any extension expiry or for a caretaker DCC to be used in the event of application failure.

4. Do you have any comments on Chapter 1 of the licence conditions, in particular do you have any comments on the drafting of the definitions?
5. Do you have any comments on Chapter 2 of the licence conditions, in particular do you have any views on:
 - i) The general objectives of the DCC;
 - ii) The way in which the Mandatory and Permitted businesses of the DCC have been constructed;
 - iii) The interaction between the mandatory and permitted businesses;
 - iv) The proposed general and security controls for the DCC?
6. Do you have any comments on Chapter 3 of the licence conditions, in particular do you have any comments on:
 - i) the independence requirements of the DCC and the interaction with the revocation provisions;
 - ii) the broad condition on protection of confidential information;
 - iii) the scope and nature of the role of the compliance officer?

The restrictions on participating interest, including the limit of a 20% shareholding, should be extended to include groups of users. For example, the aggregate holding of all network

organisations, or all supplier organisations should be limited to this threshold. In our view this step is essential to ensure that the DCC behaves equitably in relation to all classes of users. Such impartiality could not be guaranteed if a particular class of user owned a majority holding.

Similar restrictions should also be placed on participating interests from DCC service providers, i.e. the aggregate total holdings from all service providers should be limited to 20%. This is necessary to ensure the DCC is properly positioned to effectively manage service providers.

- 7. Do you have any comments on Chapter 4 of the licence conditions, in particular do you have any comments on the drafting of:**
- i) the transitional obligations on the DCC, possibly as part of a wider transition scheme;**
 - ii) the proposals for how the DCC would set out its future business development objectives;**
 - iii) the proposed inclusion of a licence condition that would facilitate future transfer of registration to the DCC?**

The inclusion of the license condition to introduce energy registration services into the DCC services will create a conflict of priority leading to the DCC's ability to support the smart metering roll-out being compromised. To avoid this we suggest the following amendments to the draft licence;

- a) Clause 15.3 – delete the end date reference [20/11/2018] to the Secretary of State's direction so that the incorporation of registration does not need to overlap the roll-out.
- b) Introduce a new clause into condition 15 specifying, for the avoidance of doubt, that in the event of a conflict between the development of registration services and the roll-out that supporting the roll-out must be DCC's priority.

- 8. Do you have any comments on Chapter 5 of the licence conditions, in particular do you have any comments on:**
- i) The procurement obligations, including the balance between what the DCC must competitively procure and what it may self-provide;**
 - ii) The most appropriate role, if any, for the Authority in influencing how the DCC should balance various competing public interests, when preparing for future procurements of Fundamental Service Capability;**
 - iii) Do you have any evidence from other sectors about how the public interest is taken into account by regulated bodies when making major procurement decisions;**
 - iv) The obligations on the DCC in relation to provision of services, recognising that these conditions will need to be reviewed in light of a more detailed definition of services; and**
 - v) The charging methodology provisions, particularly the objectives of the methodology?**
- 9. Do you have any comments on Chapter 6 of the licence conditions, in particular do you have any comments on :**
- i) The scope of the SEC as set out in the SEC condition and the SEC objectives;**
 - ii) Whether the DCC should have a licence obligation to maintain and keep in force the SEC;**

- iii) The proposal to allow the Secretary of State to block SEC modifications in the period up to 31 October 2018; and
 - iv) The way in which interoperability should be addressed through the SEC objectives?
10. Do you have particular comments on how best to ensure the consumer interest is met in the SEC Objectives, in particular:
- i) Can you identify any potential scenarios where a modification might be proposed which would be in the interests of consumers but which would not be supported by the objectives set out for the code; and
 - ii) If you think the objectives could be set out to better capture the interests of consumers, as opposed to the proposed approach for SEC objectives to be balanced in the round with due regard for energy consumers' interests, how do you think this could be done?
11. Do you have comments on the proposed condition allowing the Authority to put forward code modifications and for this power to be limited to specific areas defined in the SEC?
12. Do you have any comments on Chapter 7 of the licence conditions, in particular do you have any comments on:
- i) The proposals in relation to financial security, in particular the requirement to provide a performance bond in addition to financial security?
13. Do you have any comments on Chapter 9 of the licence conditions, in particular do you have comments on:
- i) The need for the revenue restriction conditions in the DCC licence to evolve as the DCC's role changes;
 - ii) The need to incentivise the DCC to concentrate on achieving programme milestones at the beginning;
 - iii) The proposal that the DCC's internal costs should be passed through with a (£/annum margin applied;
 - iv) That incentives on reduction in the DCC's internal costs and on output measures should be applied later;
 - v) That the DCC should be subject to an element of bad debt risk unless it takes reasonable measures to recover such debt; and
 - vi) Particular KPIs that could be applied to the DCC after it starts to deliver services?
14. Do you have any comments on Chapter 10 of the licence conditions, in particular do you have any comments on:
- i) The proposed arrangements applying to Management Orders, including the scope of the powers of the Authority in such circumstances;
 - ii) The arrangements proposed in relation to the Business Handover Plan and the process for resolution of matters between the outgoing and incoming DCC;
 - iii) The scope of matters that the Business Handover Plan should provide for;

- iv) **The scope of the matters that may need to survive for a period of time to continue to ensure a smooth handover to the DCC's successor and whether the two year timeframe is appropriate; and**
 - v) **The proposed approach to Intellectual Property Rights?**
- 15. For the initial licence application, do you agree with the Government's intention to apply the BAFO stage in all circumstances, so as to mitigate the risks associated with the changing requirements and improve the competitive outcomes?**
- 16. Do you agree with the proposal not now to include a fast-track process to appoint a temporary DCC, but instead to rely upon the provisions for intervention to keep the DCC's service functioning whilst a standard licensing application process is conducted to appoint an enduring successor DCC?**
- 17. Do you have any comments on the proposed competitive application process for the DCC licence and, in particular, on the Government's stated intention to operate an extensive 'best and final offer' stage for the first licence competition?**
- 18. Do you have any comments on the draft DCC licence application regulations and, in particular, whether they effectively implement the proposed competitive application process described in this consultation document?**