

## **Chapter 2: Proposed regulatory approach to DCC**

**Q1 - Please provide views on the approach to basing the prohibition upon contracting with all licensed suppliers in respect of all domestic smart meters, and on the way in which the specific wording of the prohibition should be developed.**

*We support prohibition as a general approach*

A prohibition is the best way to ensure that all domestic consumption points that could connect to DCC will connect to DCC on an enduring basis.

Non standard metering – There is a number of instances for which the DCC solution faces challenges in connecting meters that are not standard in the domestic sector

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for example U16 meters. These need considering on a case by case basis as a simple exemption for these may not incentivise the best metering solution for the property.

**Q2 - Do you think there will be any persons other than DCC who might inadvertently be captured by a definition structured in this way?**

*We have not established any*

**Q3 - Do you have any other comments on the form of the licensable activity?**

We believe that licence conditions and changes to them should be subject to proper consultation.

Beyond the obvious statement of the activity (connecting to the meter, and passing and storing the data properly) we do not have comments on the form of the activity.

**Q4 - Please provide comments on the proposed changes to legislation identified in Table 2.1 and Table 2.2 and any other possible changes that you consider might be appropriate.**

*We support most of the suggested changes*

In general, it should be recognised that there are likely to be bottlenecks in DCC connecting (and to a lesser extent disconnecting) meters, and some derogations may be required to avoid inadvertent and unavoidable licence breaches caused by DCC.

Energy Act 2004 – we believe that the extension of the powers of the Secretary of State can act without consultation should be limited to matters of necessity such as national security. Accordingly we believe that further justification would be required regarding the suggested changes in the Energy Act 2004.

CEAR Act - As the DCC has very limited or no consumer face, then consumer-facing services of the DCC are best bound by service regulations similar to those of the networks, rather than the CEAR Act

**Q5 -Do you agree with the proposal to have a single document with a single set of licence conditions that apply to both licences?**

Yes

Gas and power harmonisation – We believe that the harmonisation of the laws and regulations should be expedited

**Q6 - Do you agree with, and have any comments on, the proposed approach to establish all of the DCC licence conditions as “special” conditions?**

*Yes, generally*

The distinction between special and standard does not appear to be particularly important in the case of a monopoly, and we do believe that DCC should serve all residential consumer points, even those with non standard meters.

**Q7 - Do you have any comments on the scope and nature of the consequential licence changes that we propose to make?**

Yes

Vulnerable customers – We do not support DCC having requirements to act in relation to vulnerable customers, as this division should fall to distribution companies (in matters of network related safety) and suppliers (in the case of management of meters and ensuring that debt pathways do not lead to improper disconnections). Having no requirements to act in regard to vulnerable consumers, the main requirement for DCC would be to hold information (as determined by consultation) that suppliers may need (following change of supply for example)

**Q8 - Are there any other consequential licence changes that you consider might be necessary as a result of the creation of the new licensable activity?**

*Not really*

As a general comment, the cross referencing and commonality between gas and electricity licence conditions is increasing. Whilst the primary legislation changes are gradually enabling a more consistent common framework, there is further to go.

**Q9 - Please provide any comments on the proposed approach in relation to geographic scope of the DCC licence and provisions relating to its duration.**

*We support the general approach.*

We support the general scope across Great Britain and provisions relating to its duration. At the same time, we believe that DECC should be mindful of the potential for a disproportionate impact of one DCC service provider on any individual supplier.

### **Chapter 3: DCC licence conditions**

#### **Q 10 -Do you agree with the proposed general objectives of DCC set out above?**

*Yes, generally*

Third general objective - we believe that the third general objective listed does implicitly capture energy efficiency services, metering services and other energy related services and that there is therefore no requirement to explicitly detail these items within the obligation. This 3<sup>rd</sup> obligation, could therefore be redrafted to “ an obligation on DCC to carry out its business in a manner that promotes or facilitates competition in the supply of gas and electricity”

Sixth general objective – obligations relating to security in the provision of DCC Services should apply to DCC, Service Providers and all Users (including ESCOs)

DCC remit regarding energy efficiency - Energy Efficiency obligations are already covered within Supply Licence Conditions and the DCC will have no direct customer relationship. Inclusion of an obligation in the DCC with regard to acting in the interest of consumers is not only irrelevant but would be actively damaging, as consumer facing responsibility would be spread and confused, and the DCC’s attention to delivery of its core function would be diluted

#### **Q11 -Do you think it is necessary to include any statutory duties on DCC in the Gas and Electricity Acts or is it appropriate to address these issues in the DCC licence alone? Please provide the rational for your views.**

*Yes, the Acts should bind the DCC*

It is the Acts that bind suppliers and the DCC in primary legislation and thereby unify the intent. Minimal detail on the DCC is required in the Act as this can be covered in the DCC licence conditions

#### **Q12-Do you agree that any obligation to facilitate competition in the area of distribution should be considered as part of the implementation of any future smart grids related arrangements?**

*Yes*

Smart Grids - Whilst varying definitions of smart grids are used, most include wide participation in the energy complex and hence go beyond the remit of the gas and power distribution network owner operators. Such is the degree of innovation and participation required beyond the ends of the networks, that monopoly design and control of the energy complex would be inappropriate

Competition- It is in keeping with the unique nature of the Great Britain gas and power market that competition is introduced at all points where there is no natural monopoly. It is important to be clear where the boundaries of competition lie, as a monopolistic market would engender research, a competitive market would stimulate innovation and product development, but uncertainty would deter all of these

Natural monopolies – With specific exceptions such as interconnectors, network configuration design and system operation are natural monopolies. Innovative equipment and systems is not a natural monopoly and the networks are stimulated by regulation to buy in specific solutions, with a risk profile that is effectively dictated by the price controls

Supplier Hub - The Supplier Hub market design maintains the natural monopoly of the supply sector (as distinct to individual supply companies) for consumer contact. Smart Grid naturally erodes the Supplier Hub model by allowing distributor-to-consumer contracting. Whilst there are benefits to this, it is important to revisit the Supplier Hub industry model in a consultative manner and to be mindful of the potential of inappropriate monopolies, such as distributor-to-consumer contracts, and some transmission-to-consumer contracts, do not appear. It is also important to facilitate the growth of aggregators, energy service companies, and other new kinds of actors in the energy complex and energy market model

Smart meter programme – We have at all times believed the smart meter programme should recognise the smart grid development and the development of smart settlements and other elements such as smarter markets and smarter network charging. At the same time we do not believe that these developments should be enveloped in the smart meter programme, as the scope would be uncontrollable

**Q13 - Do you agree with the approach proposed in relation to the protection of consumers' interests?**

*Yes, but there should be no direct requirement on the DCC*

Consumers – We believe it to be important to be specific that “consumers” here refer to the wide body of present and future consumers. The DCC should not recognise individual consumers, consumer groups, or the special interests consumer lobbyists. Such recognition would bypass the proper consultation on policy matters

Consumers' interests – The smart meter consultation process has consumers' interests at the heart. Specific interests can be attended to in the general objectives detailed within Section 3.16 which, for the avoidance of doubt, do not and should not include an explicit obligation relating to the protection of consumer interests

Security - The DCC plays a pivotal role in the security arrangements with the protection of consumers interests being a major requirement of the overall security regime. Therefore we would support the DCC having wording within its general objectives in this area but without having an explicit duty

The DCC has no direct relationship with customers and is therefore not well placed to interpret their best interests

**Q14 - Do you think DCC should have a separate objective to promote (or facilitate) energy efficiency?**

*No*

The objective of the DCC should be very clear, and this is to support the efficiency and costs of its function in data and communications. Requiring the DCC to work outside its core expertise would dilute its efforts, increase costs, dilute responsibility and add confusion. Energy efficiency can be achieved in many ways (demand response, network losses, power generation scheduling etc.), each of which is the province of a particular sector

**Q15 -Do you agree that SEC licence condition should be drafted so as to provide flexibility over the future scope of the SEC, i.e. that the scope of the SEC in the DCC licence condition should be drafted in a permissive manner?**

Yes

Scope - Whilst the very heart of the SEC is the control of access to data, the governance arrangements around this requirement create both a ready made vehicle for wider functions, and a single place for a wider array of functions, without having complex hand-offs and cross reference between licence conditions

Timing – There are many requirements that are known now and hence the first version of the SEC should be drafted as soon as possible. Future changes should be subject to a robust change mechanism, as is currently done, for example in the Uniform Network Code and the Balancing and Settlement Code

**Q16 - What are your views on the SEC Applicable Objectives set out above?**

*We support objective (a), (b), (c), (d) and (g)*

(e) (environment) - We do not believe that there should be an objective relating to having due regard to the environment (see objective e), but would propose that the SEC Modification Rules should be drafted so as to ensure that the environmental impact of any proposal(s) are given due consideration

(f) (energy efficiency) - It is not the DCC's role to promote competition in energy efficiency, metering services and other energy related services, therefore we would do not support objective (f) as currently drafted. We propose that this objective should be redrafted to " an objective related to facilitating competition in energy efficiency, metering services and other energy related services"

**Q17 - Do you agree that the SEC should be designed to take into account consumers' interests by meeting its applicable objectives, rather than having an explicit objective related to the protection of the interests of consumers?**

Yes

DCC will have no direct interface with consumers therefore it is not appropriate for them to have an explicit objective relating to the protection of the interests of consumers

Consumer protection – Whilst the broad swathe of consumers merit protection, for example in expecting DCC errors not to threaten continuity of supply, or cause large bills from consumption data errors, or cause safety risk from incorrect inspection records, we generally regard consumer protection as regarding vulnerable consumers. The definition of “vulnerable” varies widely, with some definitions covering over half of the households in Great Britain. Protection for these largely relates to continuity of supply in the face of material underpayment of bills. This cannot possibly be the province of the DCC, either to opine or to manage or even to police

**Q18 - Should there be a SEC objective related to promoting (or facilitating) efficiency of energy networks?**

*No*

If parties bound by the SEC can facilitate the efficiency of energy networks, then the mode of facilitating must be clear and they should be bound by other licence conditions. For example, better triangulation should eventually allow the distribution networks to track losses/leaks between their lowest meter points and consumer meters, and thence fix faults or optimise in other ways (pressure, phase etc.)

As ever, the DCC must focus on storage and carriage of information that optimises the balance of cost, volume and latency as specified by the users

We do believe that users of the SEC are bound to use the data in a manner that optimise the efficiency of the energy complex, and that this should be reviewed by the regulator. An example is the use of consumption data in the losses incentives

**Q19 - Do you think the SEC should have a separate objective of promoting (or facilitating) energy efficiency?**

*No*

As with the questions above, the SEC will facilitate energy efficiency through cost effectiveness and efficiency in its core function in providing data and communications services to its users, as requested by them through the consultation process

**Q20 - Do you agree with the definitions of the services that DCC should be required or permitted to provide?**

*Yes - generally*

Benchmark levels in the core service– the benchmark levels need to be clear and optimally specified. For example, it is hard to determine elective services for more frequent meter reads than in the core service as the core service has yet to be defined fully

**Q21 - In relation to which non-compliant metering systems should DCC, be required to offer services?**

Non compliant domestic meters – It is possible that non compliant meters, installed before DCC go-live may still be in situ up to 2019. We do not believe that capital expenditure should be incurred by DCC to support these meters unless it is quite clear that revenues will recover total cost and that stranding risk is minimised

AMR meters – The rules for businesses are different to those in the domestic meters, and hence AMR meters will be present that do not conform to the domestic meter DCC specification. We believe that the DCC should be required reasonably to consider all requests for connection to DCC for these meters, and that the requirement to provide service will depend on the specifics. For example, DCC should not be required to communicate in a medium that it does not currently use

**Q22 - In relation to which non-compliant metering systems associated with energy supply at consumer premises should DCC, be permitted to offer services?**

*Any that defrays costs and reduces or do not increase risk for DCC*

It is the suppliers that are bound by the relevant version of the Smart Meter Installation Code of Practice and by the meter functionality and operation. If DCC incurs capital spend to serve non compliant meters then the stranding risk must be both clear and minimal in relation to revenue. Similarly, non compliant meters could utilise “ spare bandwidth” in both data and communications, but must not cause congestion or other compromise to core service

Free riding – non compliant metering systems should not free ride, and therefore charging to them should include consideration of capital costs

**Q23 - What information should be made available to all users about:**

- elective services?
- value-added services?

**Should information be restricted to that required to assess the impact on other users of DCC services or should there be full transparency? Should DCC be required to make available the detailed commercial terms and conditions of such services?**

*Full transparency of all terms, conditions, services and performance*

Only full transparency will provide public confidence that there are no hidden cross subsidies

**Question 24 - Do you think the detailed terms and conditions for elective and value-added services should be set out in the SEC or included in bilateral agreements between DCC and persons to whom it is providing services?**

*Yes, controlled by the SEC*



The SEC forms the binding governance for data and communications for both DCC and parties connecting to DCC, whether for compliant or non compliant meters, or other services

The SET will set out in detail the principles of services provided by it, and must also be the route to transparency and governance

The evolution of the DCC, and particularly its potential use beyond the core service or information about meters and energy flow, cannot be known at this point. First and foremost, stakeholders must confidence in the integrity, performance and cost effectiveness of the service. A secondary goal is to use the data/communications infrastructure to facilitate innovation and enhance the benefit to the consumer community. In this secondary goal, transparency is paramount, and there can be no unfair advantage to existing service providers to the DCC

**Q25 - Are there any other matters that we have not addressed related to the nature of services provided by DCC? (Note that provisions addressing independence and non-discrimination in the provision of DCC services are covered in paragraphs 3.119 to 3.120).**

*End to end service*

We appreciate the consideration that has been given to the end to end service and believe that still more work is required. As it stands each individual service provider could be meeting their Key Performance Indicators but the overall end to end DCC service could be compromised by poor handoff arrangements that are not caught by the Service Level Agreements and KPIs. One mechanism might be some sort of contractual requirement to operate in harmony with other service providers.

All services provided by DCC should be governed by the SEC and the SEC Panel

**Q26 - Do you agree that DCC should be required to externally procure specific services and have principles that determine what other services it should externally procure?**

Yes

We believe that DCC service provider selection should stand on the merits of the solution. There are benefits to a largely internalised service (handoffs are more effective and harder to “lose” responsibility for) and to systems integration service (best and most flexible use of available technology). We do not believe that the degree of external procurement should be a selection requirement but will instead be a factor for consideration

**Q27 - Do you agree with the procurement objectives for DCC identified above?**

Yes

**Q28 - Do you agree that DCC should be required to produce a procurement and contract management approach document?**

Yes

**Q29**

**We seek your views as to whether the procurement and contract management approach document should be required to be submitted for approval by the Authority and/or the Secretary of State.**

*Secretary of State, although there is merit in the Authority having sight of the document and the opportunity to comment on the areas of its remit*

The procurement of DCC service provision is a matter of national importance and requires the specific accountability of the Secretary of State, which thence provides accountability to the cabinet and the Prime Minister

The key risks are that the technological decision driven may ultimately be suboptimal, unworkable, excessively costly, or with high redundancy risk

**A – Materiality and size of contract**

The key consideration here is the financial size of the risk for remedial action, not the governance of the procurement or the solvency of the service provider/s

**B – Procurement of critical national infrastructure**

We do believe that the DCC performs the function of critical national infrastructure, and that the infrastructure will develop and become more critical. The key decision criteria for the Secretary of State are long term development. We believe that the security of the DCC services should be governed by formal processes, and are not a political decision. From a security standpoint, the cabinet decision essentially relates to the marginal spend on extra security. This is not a decision for a single minister and requires the cabinet and the Prime Minister

**Q30 - Is the scope of the proposed prohibition on discrimination, which is limited to undue discrimination between uses or classes of users, adequate?**

*Yes with one exception*

We support all the proposed constraints listed in Section 3.119 with the exception of the 4<sup>th</sup> bullet point (i.e. “ no explicit constraint on monopoly licensees (networks or transmission licensees) owning DCC, although, if any one of these licenses holds a greater than 20% share or controlling interest additional ring-fencing provisions may need to be considered” )

We do not support the proposal that there should be “ no explicit constraint on monopoly licensees (networks) or transmission licensees) owning DCC...”

All of the monopoly licensees have an interest in DCC and they should therefore be subject to the same constraints as any other individual user operating in a competitive environment i.e. shippers, suppliers, Energy Service Companies

**Q31 - Are any specific provisions needed which require DCC not to discriminate between service providers?**

No

**Or is it sufficient to rely on obligations on DCC to maintain and develop an economic system and, in the procurement of DCC services, to promote competition in the provision of such services?**

Yes

The obligations on the DCC are to maintain and develop an economic system and, in the procurement of DCC services, to promote competition in the provision of such services should be sufficient

**Q32 - Do you agree that DCC should be independent of service providers?**

Yes

**Do you agree that a de minimis level of affiliation between DCC and service providers should be permissible?**

Yes

Independent of the DCC from its service providers is certainly the ideal, but we recognise that de minimis affiliations, such as minority crossholdings or common participation in other services may be a practical reality. We believe that a wide potential field of DCC and service providers is important and should not be trammelled by an excessively stringent approach to affiliation. Since the future migration of staff can only be constrained for short periods, then it is impossible to police practical affiliation below a de minimis level

**Q33 - What level of affiliation do you consider should be set for the maximum level of shareholding or control of any individual service provider may have in DCC?**

*This cannot be quantified, the key is influence*

This is a matter for discretion and best governance practice in procurement. We do not believe that the full array of forms of affiliation can be listed or affiliation limits quantified. At the same time, we believe that it is possible to test whether undue influence is a risk, and this can be policed ex post (meeting minutes for example)

**Q34- Do you agree with the business separation between DCC and users that is proposed? More specifically, do you agree that no DCC user that operates in a competitive environment should be permitted to have more than a 20% shareholding or control in DCC, and that DCC and its subsidiaries should not be permitted to have any shareholdings in users or service providers?**

Yes

There exists a rich body of knowledge, systems, processes, infrastructure and governance in industry organisations such as Electralink, Gemserv, Elexon and Xoserve. We believe that large parts of this body should remain, albeit in highly reorganised form. These organisations are owned by industry participants such as suppliers and networks, all of whom are extremely unlikely to aspire to grow material businesses in the areas related to DCC service provision

We therefore believe that as with affiliation, that there should be no hard and fast rules relating to shareholding or control, but instead the risk for undue influence now or in the future should be considered on a case by case basis

**Q35 - Do you agree that it is not necessary to explicitly require business separation between DCC users and DCC service providers?**

Yes

Where there is a business connection between a DCC user and a DCC service provider, each party should disclose the relationship to the DCC in an open and transparent way. All DCC users should be treated on a non discriminated basis

**Q36 - Should DCC be prohibited from using confidential information for any purpose other than the licensed DCC activity?**

*Not explicitly, as this preclusion already exists*

**Should DCC be obliged to impose this restriction on service providers contractually?**

*Not explicitly, as this preclusion already exists*

We believe that the Data Protection Act must provide the guidance and enforcement in matters of personal privacy and that prohibitions and contract restrictions should apply the DPA in context rather than seek to be beyond it

The DCC itself should have no requirement for data other than that specified by its users and governed by the Smart Energy Code. Since no party has access to DCC that is unbound by the SEC, then there should be no need to bind the DCC with further requirements

The service providers are not bound by the SEC in the same way that users are. To the extent to which a service providers can be a user (directly or affiliated), then they would be bound by SEC in the usual way

**Q37 - To what extent do you believe that the existing financial ring fencing provisions (and those proposed by Ofgem in its recent consultation on this issue) should be included in DCC's licence?**

*We believe that they should be similar to those operating for networks*

The financial risk fencing and associated governance for networks ensures to the greatest extent possible the operation of networks in the event of loss of financial integrity of the owner. The DCC (and service providers) cause higher exposure than do the networks due to the very low stranding/rapid obsolescence risks and high capital value of the networks. Therefore the ring fencing for DCC must be at least as strong as for networks

**Q38 - Do you agree that a flexible approach to financial security should be adopted and, if a financial security is required, what level of financial security should be provided?**

Yes

We support the proposal that applicants should commit to lodging a form of financial security at the invitation to apply stage. This is a sensible and prudent reflection of the important role that the licence holder will play in the management of the smart infrastructure. As a point of clarity, we would suggest that, where the applicant is a consortium, the financial security should be pledged by all members of the consortium in a manner that fully reflects their responsibility within the DCC

**Q39 - What are your views on whether it would be appropriate to require DCC to pay for a proportion of the costs of appointing a new DCC in the event of an early licence revocation? Do you think that this potential liability should be reflected in the level of financial security required from DCC?**

*The cost of at least a degree of the risk insurance must be covered, either by DCC or by DCC service provider, whichever is most efficient*

There is no particular functional requirement for the DCC to be a highly capitalised organisation, and hence the value of self insurance would be highly limited. The cost of a performance bond and the solution for recovering services after licence revocation would differ according to service provider selection and should therefore ideally sit with the service provider. The main requirement for the DCC itself is for the incentive to be aligned – specifically the DCC should experience material loss in the event of licence revocation

**Q40 - Are there any other conditions that you consider should be imposed in DCC's licence to ensure its continued financial viability?**

No

**Q41 - Would it be appropriate for a special administration scheme to apply to DCC?**

Yes

The consideration of the SAR in the case of loss of licence or capability by a supplier was a useful one in terms of understanding risks and potential mitigation. We believe that a similar exercise would be useful for DCC

DCC exit would have some significant similarities (particularly in the relation between meter reads and demand forecast) and differences (the DCC is a monopoly)

**Q42 - Do you agree with that DCC should be required to ensure business continuity of service providers and should monitor the provisions that they have in place to deliver business continuity?**

Yes

As with all business continuity planning, there will be items that are time critical and items become critical through the passage of time. We do believe that there should be business continuity planning and aspects of this (for example security and critical national infrastructure) are not likely to be conducted directly by the DCC or service providers

We do believe that it behoves both the DCC and its service providers to identify business continuity risks and have action plans, at least at high level. We do believe that any commitments made by DCC service providers (the cost of which is included in their contracts) should be subject to audit

**Question 43 -Do you believe that DCC needs to include in its service provider contracts any further protections which help to secure against, or mitigate the consequences of, a financial failure of a major service provider?**

Yes

We believe that in addition to the DCC being required to monitor and report on the financial standing of service providers, and to require service providers to have in place appropriate business continuity plans, the DCC also needs to be able to act upon information received via these monitoring processes in order to mitigate any risks that they identify

**Q44 - Do you agree that it is appropriate to grant the initial DCC licence for a ten year period?**

Yes

The period is a question of balance. Too short a period would drive up stranding risk costs of the service provider, but too long a period would create a monopoly and risk an attrition of service and absence of innovation

We believe that five years is too short and fifteen too long. For reasons of workload planning it would be better if the analysis for the renewal were not contemporaneous with the electricity network price controls

**Q45 - Do you agree that flexibility for the Authority to decide to extend the initial DCC's licence by up to 5 years would be desirable?**

Yes

There may be reasons for the Authority to avoid or delay a competitive tender. Should the Authority consider this to be the case, we believe that the matter is important enough to be aired in consultation

**Q46 - Do you agree with the approach described for the treatment of DCC internal costs for any extension period?**

Yes

**Q47 - Do you agree that DCC should be required to ensure that any critical services can be transferred to a successor?**

Yes, *broadly*

We believe that the DCC service provider should not be allowed intentionally to cause non interoperability that may cause a cost and/or technical barrier to awarding contract renewal to another party

Provided that interoperability is maintained to a reasonable degree, then there should be no reason for an outgoing DCC service provider involuntarily to hand over operation and infrastructure to an incoming service provider. The backstop ability for the DCC to bind a service provider to transfer a critical service to a successor would have the benefit of ensuring the correct incentive to maintain interoperability, but would have the drawback of the addition of cost, risk and complication to potential service providers

Therefore such a requirement would have to be drawn with great care

**Question 48 - What scope of matters governing the handover to a successor do you think need to be included in DCC's licence?**

*We support the proposed list of matters for inclusion in DCC's Licence conditions*

In addition:

We believe that there could be benefit in requiring some form of " Transition Bond" to be put in place to incentivise a smooth transition from one DCC to another

As part of the procurement process applicants should provide evidence of the arrangements that they have in place to manage the proposed list of matters

It would be useful if Ofgem could provide some guidance on how it will monitor that the DCC is able to comply with all the matters being proposed in section 3.167

We are also of the view that more detailed Transition arrangements will need to be included within the SEC

**Question 49 - Do you agree that DCC's licence should be capable of being revoked in the event of a repeated or material failure to meet service levels?**

Yes

This is standard for any licensee

**Question 50 - Do you agree that the DCC licence should contain a condition which gives it a high-level obligation in relation to foundation and subsequent rollout, activities and that the detailed obligations can be dealt with as part of the development of the SEC?**

Yes,

In respect of the activities that the DCC will be required to carry out as part of set-up, such as industry testing. All other licence conditions should pertain to enduring arrangements rather than Foundation

It is important that DCC has a high-level obligation from go-live that is quite clear at an early stage, in order to ensure that Users are able to fulfil their rollout obligations without hindrance

**Q51 - Do you agree that DCC should have a high-level obligation, albeit initially "switched off", relating to the provision of meter point/supplier registration services?**

Yes

We do believe that supply point registration should eventually fall within the data services of the DCC and service provider. Similarly we do believe that Supply Volume Allocation services should also be supported by the DCC and service provider. This will take many years to effect, and what is important at this stage is that the architecture can facilitate the final architecture and the transition (big bang, wither on the vine, etc.)

**Q52 - Do you agree that conditions should be introduced in other licences providing the ability to release other licensees from the requirement to provide meter point/supplier registration services at some point in the future?**



*Yes, but this is not urgent*

The direct benefits to consumers in the form of information, tariffs and demand management, and the indirect benefits as reduced supplier meter read costs flow through, are related but distinct to the smart network benefits. In particular, the geographical, postal and network (service termination) addresses of the meters, and the reconciliation to energy flow (including voltage etc.) require accurate triangulation to the meter serial number and supplier information

The onus on the networks will change substantially. Whilst currently, the priority is for the networks to provide supply point references for suppliers, in future the ability to optimise and manage in real time the smarter networks will require the energy details of the service terminations (meter points) will be of higher importance. The networks will therefore have lesser responsibility to manage databases, but have a higher requirement to populate them with their information, and to act using all available information

This transition will take many years, and what is important in the interim is that responsibility is clearly assigned. It could be split, for example in “wither on the vine” ,

in which the data accuracy all new registrations falls severally on the DCC (to capture and use data provided with it) and networks (to ensure that network data population is correct)

**Q53 - Do you agree that DCC and other relevant licensees should be subject to an obligation requiring the licensee to take steps to facilitate the transfer of meter point/supplier registration activities to DCC?**

*Yes, as a backstop*

We believe it to be essential that the networks are fully integrated in the decision process to DCC registration and supply volume allocation. Therefore we believe that a plan for voluntary transfer should be tried first, with regulation as a backstop

**Q54 -What dispute mechanism would be appropriate to apply to disputes involving DCC ...**

*Various, as appropriate*

**and who should be enabled to determine such disputes?**

*The Authority (Ofgem)*

Different types of disputes are likely to require different dispute mechanisms to be put in place; however as a general rule we believe that it would be appropriate for:

i) Disputes relating to the DCC’s failure to meet its obligations should be determined by Ofgem.

ii) Contractual disputes should be managed via the disputed mechanisms that will be incorporated into SEC

iii) Service Level Disputes should be managed via a SEC Performance Assurance Framework

**Question 55 - Do you believe that DCC should be required to operate its business in a way that ensures it does not restrict, prevent or distort competition in gas shipping, the generation of electricity and participation in the operation of an interconnector?**

*Yes, but no extra strictures need to be applied*

Competition Act – DCC and service providers will be bound by the Competition Act. If contextualisation is required then one way to do this is through guidance (e.g. by Ofgem)

Wholesale activities – Where some wholesale activity, such as interconnection has impact on the management of the supply market, then this should be explicit and managed firstly through existing governance such as the Balancing and Settlement Code or the Connection and Use of System agreements. Specifics should be picked up in the SEC only when the existing governance arrangements are inadequate to attend to the smart meter context

Gas shipping – The presence of the Shipper as a discrete market participant does create special factors for gas, and a closer connection between supply and wholesale markets than in electricity. There may be some (currently unforeseen) competition risks in gas shipping, and these should be anticipated and attended to in the most suitable governance vehicles

**Q56 - Do you have views on the additional conditions discussed above?**

*Yes, we support*

We are supportive of the additional conditions that are detailed within Sections 3.192 to 3.200, and are also in agreement with the view that it will be necessary to revisit the issue of whether the DCC should be required to become party to and comply with existing core industry documents once further detail on the drafting of the SEC and consequential changes has been developed

**Q57 - Are there any additional conditions that you would wish to see included?**

*No*

#### **Chapter 4: Revenue requirements**

**Q58 - Is it appropriate to consider extending the Secretary of State's powers to provide equivalent powers to modify DCC's licence conditions as it does for other energy licences for the purposes of implementing smart metering?**

*Yes*

Developments and issues that require coincident changes to DCC and supplier licence conditions should be subject to governance processes that can be coordinated

Whilst the circumstances for which expedience requires shortened or no consultation on supply licence changes should be very few, the greater need to make design decisions relating to DCC gives the Secretary of State greater responsibility and requires greater powers

**Q59 - Do you consider that it is practicable for DCC licence applicants to provide costs for undertaking meter point/supplier registration? Or is it more appropriate to include a specific reopener for DCC's costs of undertaking meter point/supplier registration?**

*Provide cost estimates now*

We believe that the direction of travel and possible solutions with regard to eventual DCC registration are sufficiently clear now, for the DCC licence applicants to submit both a high level view of at least one possibility, and a broad cost estimate. This both optimises the long term cost and reduces the degree to which the industry can be “ held to ransom” by a monopoly provider of a service that becomes essential.

**Q60 - Do you have views on the relative benefits of the two options (cost pass through and volume drivers) for recovery of DCC internal costs associated with SEC modifications?**

*Not at this stage*

We believe that both options have merits but based on the information provided within the Consultation we are unable provide any constructive views

**Q61 - Do you have a view on the appropriate materiality threshold (trigger) for the revenue reopener?**

*Not at this stage*

We concede that there should be a mechanism for revenue re-opener but have no view on the trigger or threshold

**Q62 - Do you consider that any other cost areas may require mechanisms to deal with uncertainty?**

Yes

Uncertainty is by its nature difficult to deal with in cost planning (unknown unknowns etc.). One area to consider is security. New risks will appear, either from an incident somewhere in the world, or from a new recognition of vulnerability. Remedial action would be mandatory, and would incur DCC costs, such as message flows for security patches onto meters and other Smart Metering System components

**Q63 - Do you agree that market share should be based on MPANs and MPRNs that are mandated to receive smart metering systems, rather than all MPANs and MPRNs?**

Yes

Cost reflectivity – we support this as a general principle. A meter point that will never have a smart meter does not incur DCC cost

Past and future – This question invokes the wider issue on the point at which a meter point (and thereby the supplier and thence consumer base) should be charged for

the DCC. A meter point connected to DCC should obviously pay DCC usage cost. A meter point not yet connected to DCC may incur DCC capacity cost. The question for both is what DCC capacity cost to charge to the meter point. This question cannot be answered in detail here but briefly our view is that to avoid double charging meter points for both traditional meter reads and DCC services, and recognising the relatively high scalability of data and communications, that DCC capacity cost should be loaded in usage cost. Hence DCC costs should fall mainly on meter points using the DCC. The amortisation schedule of DCC infrastructure costs in practice ensures that meters connecting to DCC begin to incur capacity costs on connection

**Q64 - Do you have a view on whether suppliers of only larger non-domestic customers should be charged a proportion of DCC internal costs?**

*Yes – they should not at this point*

As with Q63, this is essentially a capacity cost question. If a large meter point may at some point use DCC, possibly for smart grid, losses optimisation, service termination mapping, voltage measurement or other purpose, then capacity cost may be incurred now. In general it is our best understanding that the capacity cost incurred at this stage, and the general materiality of large supply point cost to DCC would be small compared to residential, that it is not necessary to charge them at this point

**Q65 - We welcome views from stakeholders in regards to charges on network operators for DCC internal costs pre-“go-live” and whether they should charge DCC for services provided to DCC.**

*They should not be charged pre go-live*

*They should charge DCC for services provided*

Cost reflectivity – cost reflectivity is supported, and cost optimised, by transfer pricing. Accordingly networks should receive revenue for services provided to DCC, and DCC as recipient of the services should pay for them

Flow through to consumers – Network costs flow to consumers via supply charges (the supplier hub model). It is most efficient for suppliers (and thence consumers) to experience DCC costs directly, rather than smeared in distribution price control

**Q66 - Do you agree that DCC should only begin to charge users for communication service providers' costs from “go-live”?**

Yes

We recognise the arguments for charging users for a service when they incur cost and in advance of receipt of service. However, the effective administration of how far in advance of DCC connection each meter point should pay is impossible. Hence we support charging at the point of receipt of service

Incentive – this charging mechanism incentivises DCC’s service providers to get up and running as quickly as possible

**Q67 - Do you have a view on whether the data service provider(s) should be treated differently from communication service providers and be allowed to recover its fixed costs evenly over the length of its contract from “go-live”?**

*Yes – ideally they are treated the same*

Cost structures – Not only is the ratio of fixed and variable costs different between data and communications, but they are quite different for different technological solutions, and the component costs (data storage, bandwidth etc.) and other costs (people, processes, systems) change at different rates. Whilst it would be ideal for service providers to experience revenue structures that broadly match cost structures (i.e. reflectivity of cost of risk capital), it is likely that this would make like-for-like service provider selection even more difficult. Accordingly we believe that is best for DCC service providers to work with a fairly standard fixed cost recovery schedule, and optimise their capital costs themselves

**Q68 - Is it appropriate that the allocation of costs on suppliers during rollout be based on the suppliers’ rollout plan for the year plus actual smart meters installed in preceding years? If so, how can this option for allocating costs during rollout be improved?**

*Yes, costs should be allocated based on a rollout plan plus any smart meters installed in previous periods*

In our response to Q63 we noted that DCC capacity costs are incurred in advance of connection. It is economically ideal to charge this cost to suppliers at the point that connection looks likely to happen in the reasonably near future. The rollout plans seem to be the best information source on which to base this estimate. There will need to be some process to incentivise suppliers to make accurate estimates

**Q69 - Do you have a view on how any additional costs resulting from suppliers exceeding their rollout plans should be allocated?**

Yes

**Should DCC be able to pass through to the relevant supplier any higher costs resulting from this (or should such costs be averaged across all users)?**

Yes

Cost reflectivity – we support this as a principle. Inaccurate forecasting incurs a cost that should not be socialised

Information incentive – If suppliers receive slightly higher costs for extra meters above rollout plan, than the initial cost allocated to the rollout plan, then they are positively incentivised to forecast accurately

More complex charging, relating to overall capacity - Any extra costs incurred by suppliers for exceeding their targets should reflect the actual costs incurred by the service provider. But it should be recognised that any subsequent service provided to other users could result in a discount e.g. if Supplier A, in exceeding their plan, means that a new communications mast has had to be bought then that supplier should bear the cost of that mast at that time. If subsequently however, Supplier B

uses that must then Supplier A could receive a corresponding discount

Additionally, any charges resulting from under-achieving against the rollout plan that is not within the direct control of the supplier, e.g. the DCC has failed to deliver within a particular area in time or a particularly harsh winter has stalled the rollout then subsequent charges should be adjusted accordingly

**Q70 - Do you agree that network operators should be charged in line with their market share?**

Network Operators should be charged in line with the actual number of Smart Meters installed in any area

Cost reflectivity – It would be ideal for each distribution area to experience a charge appropriate for the cost that it incurs DCC. This would result in different consumer charges. We recognise that there would be distributional impact but believe that distributional impacts should be attended to after and not before cost reflective charging. The debate here is similar to that in Common Distribution Charging Methodology

**Chapter 5: Charging methodology**

**Q71 - Do you agree that a standing charge should cover the service providers' fixed costs for providing core services, DCC's internal costs and the SEC management funding requirements?**

Yes

Capacity charging – we believe that the cost of capacity should fall to those who incur it. The most practical method of applying this for DCC costs is in a standing charge

Retail Market Review – Since the regulator will be involved in supplier standing charges to consumers, we believe that positive confirmation that DCC costs will be recognised would be helpful

**Q72 - Do you agree that a proportion of service providers' fixed operating expenditure should be converted to volumetric charges?**

Yes

Charging flexibility - Having a proportion of fixed costs converted to volumetric charges does provide the capability to have a more accurate proxy for costs

Administration – This has an administrative burden, at least in the early stages whilst estimated annual quantities (EAC/AQ) stabilise from regular accurate meter reads

Cost reflectivity – We would not support a significant deviation from the most cost reflective ratio (consumption / meter points) as this would be inefficient

Distributional impact – In general we believe that distributional outcomes should

be attended to at the point of impact, rather than apply crude proxies in charging systems. Volumetric charging may achieve a positive distributional impact (as low consumption is associated with low income) but this comes with an efficiency cost (increase in total cost and detriment on low income high consuming groups)

**Q73 - Do you agree that the proposal for postage stamp charging is consistent with the objectives of the smart metering programme?**

*No – but on balance this may be the best practical policy*

Cost reflectivity – Postage stamp charging is inefficient. Combined with DCC capacity charging for meters not yet installed, there is potential for significant cross subsidy with no objective justification. We should also note that the first smart meter technical specification SMETS has some necessary shortcomings, particularly in the areas of Home Area Network and security. As later versions of SMETS internalise some of these costs in the smart meter system rather than the DCC, DCC will incur costs in managing early SMETS version meters. The suppliers of higher specification (SMETS) meters should not pay twice to cross subsidise the cost of overcoming shortcomings in early versions. Postage stamp pricing has a greater likelihood of inefficient cross subsidy

Distributional impact - We do recognise that there are distributional impacts of cost reflective charging, for example, if remote areas have higher communication costs, and that a degree of socialisation can be accepted to mitigate these

Practicality of administration - We recognise that there are instances where the administrative cost of more complex charging exceeds the efficiency gain

**Q74 - Should postage stamp charging apply to all users including network operators?**

*Ideally not*

Cost reflectivity and transfer charging – Cost reflectivity should flow through the value chain. Hence network operators should pay cost reflective charging

**Q75 - Do you agree with the proposed charging principles?**

*We do not oppose strongly*

Development – As with developments in distribution charging in particular, the development of charging methodologies should be continuous, and the effective date of charging changes should be at least a year after the point of decision. It will be essential for consultation and the use of independent expertise

**Q76 - Do you consider that an objective for the charging methodology should be to promote innovation in the supply of energy, provision of energy related services and energy distribution?**

*Yes, broadly*

We do not believe that it is for the DCC to drive the debate on the energy policy and the complexities of the energy supply sector

We do however believe that the DCC is an important actor that can both enable innovation and cost efficiency, or reduce efficiency through compromised charging structures

Hence, rather than DCC determine how the distribution and supply sectors are run, it should recognise the requests made by this sector for efficient DCC charging, and demonstrate the trade-offs between overall cost efficiency and the administrative burden of cost reflective charging

**Q77 - Do stakeholders have views on whether DCC's internal costs should be allocated across the different types to users on the same basis as service provider fixed costs?**

*We do not have a strong view*

The theoretical ideal is to determine the optimal hedonic pricing structure such that there is no free riding. However, this is impractical, and hence the allocation of DCC internal costs (which are small compared to service provider costs) simply needs to be intuitively sensible. An allocation according to service provider costs does seem to make sense

**Q78 - Do you agree with the proposals to charge users for extensive assessment and design work in relation to AMRs?**

Yes

We believe that extending DCC beyond core service should not compromise core service and should defray capital and operational costs

In considering whether to provide one service or other, DCC incurs costs which would not be recovered in the event of a conclusion not to offer the service, or there being no demand at the required price. DCC therefore needs a degree of flexibility to incur design and assessment cost, which would ideally be recovered in the risk premium charged for those services that do get implemented and taken up

**Should a similar approach be adopted for other elective services offered by DCC, regardless of the user accepting the service?**

Yes

We see no reason to discriminate between users

**Q79 - Do you agree that "a second comer principle" can be applied?**

Yes

It needs to be transparent so all parties understand the implications



## **Chapter 6: Core services – WAN requirements**

**Q80 - Please indicate whether the Minimum Core Service Requirements (i.e. message size, frequency, response time and coverage) for each of the message flows in the above tables can be modified to reduce the potential impact on the WAN cost without compromising the corresponding benefits.**

*No, it cannot, as this will not then reflect the real practical situation*

Our understanding is that message flow response times/ frequency etc. as well as potential amalgamation of messages has already been analysed and reduced to their perceived minimum by the WAN User Requirement Working Group, which has representation from all suppliers. This analysis resulted in the figures shown in the „ Minimum Core Service Requirements“ in table 6.1 Therefore, we feel that any further reductions to the frequency/ size etc. will not reflect what is currently perceived by the industry/ suppliers to be the realistic levels

The only (DAY 1) messages selected for discussion in this question are electricity and gas scheduled meter reads, electricity on demand meter read, remote dis/enablement and diagnostics. The consultation states that out of all the messages identified these are the ones that “ have currently been identified as having high performance (i.e. high cost) requirements relating to DCC” s communication services”

There are other messages that have been identified by the WAN User Requirements Working Group (and are shown in table 6.3 in the consultation) which have just as high (and sometimes higher) performance requirements e.g. query devices on HAN/ firmware or software updates/ tamper alarm

We therefore feel that if there were to be any further analysis done on potential reduction on WAN costs then this needs to be done by looking at the full message set and not just the ones identified in this consultation question

Smart Grid - message flows are likely to be important, but we do not have a developed view on the specifics at this time

**Please quantify the additional Programme benefit that could be realised by including each of this message flows in the aggregate Minimum Core Service Requirements.**

We support all messages listed being included in the „ Minimum Core Service Requirements“ . We feel that these levels of service will cater for on-going day to day operations and will therefore allow us to realise the perceived programme benefits

**Q81 - Please quantify the additional benefit, if any, that could be realised by using the „User Target“ rather than the „Minimum Core Service Requirement“ in table 6.1. as basis for the procurement of DCC communication services.**

*None*

We believe that the „ Minimum Core Service Requirements“ for the service events listed in Table 6.1 (table 6.2 relates to smart grid and does not therefore require an npower response) of the consultation are sufficient and that there are no obvious additional benefits that could be realised by using the „ User Target“ . However, we do not feel that this is a comprehensive list of all the messages (see response to Q80 & Q82)

Costs – we support the view to keep costs as low as they possibly can be, including the requirements for all messages to be as low as possible

**Q82 - Please provide views on whether the Service Requirements described in the above table represent the Minimum Core Service Requirements.**

*They do not – we support the messages that are included but feel that there are additional messages that are missing (see below)*

**Please also indicate whether in your view there are any additional Minimum Core Service Requirements not identified in the above table, and for any such requirement please quantify the additional benefits, if any, that could be realised.**

We have identified the following messages that are not included in the table;

- Meter read (import/ export) eORg Scheduled/ Meter read (import/ export\_ eORg on demand – These two, day one, messages identified in the WAN user requirements WG, and which are included in the base lined version of the message flows (published on DECC website 25/08/11), do not appear on table 6.3 of the Consultation Document.
- Gas meter reading on demand - There is no message for gas meter reading on demand in either table 6.1 or 6.3 of the consultation document, or in the base lined message flow table from the WAN WG
- Cancellation/ Clear down messages - There is no message flow for „ cancelling“ existing message requests
- Missing security messages identified in STEG WG
  - Alert where smart meter failure detected
  - Alert where communications hub failure detected
  - Message to interrogate audit log of security events

We have also noticed that in table 6.3, the „ Frequency (per day) column should be „ Frequency (per year)“ as per the baseline message flow table

## **Chapter 7: Performance incentives**

### **Q83 - Please provide comments on the incentive regime proposed for DCC.**

*We support, and believe that the DCC should not set its own Key Performance Indicators*

Core Service KPIs – The Core Services should be sufficiently clearly stated in the DCC licence conditions that KPIs can be constructed from them and map directly back to them. The licence conditions should also be sufficiently clear about the level of performance that should be achieved. The actual KPIs can then be set, monitored, and enforced by the regulating authority

Day 1 – The KPIs for delivered service should be effective from go-live

DCC negotiation – Any negotiation by DCC about the expected level of its own performance must be pursued before the final award of tender

### **Q84 - Do you consider it appropriate and feasible for the SEC panel and DCC to negotiate KPI targets?**

*No*

As per our response to Q83, the DCC should not negotiate KPI targets after the award of tender

SEC panel – depending on its constitution, it may or may not have the full competence and remit to develop KPIs. At the same time, it will clearly have some essential expertise, and therefore should play a key role in the ongoing development of KPIs

KPI development – KPIs should be determined as much as possible prior to tender award. Subsequent KPI development should be to cover for unforeseen KPIs for the existing scope, and necessary scope changes that will arise through the programme

### **Q85 - Do you have views on the use of an independent audit of DCC performance?**

*Yes*

We believe that there should be independent auditing of the DCC and because the DCC is a licensed entity we feel that the regulator (Ofgem) would be best placed to manage the audit

### **Should this be on a regular and/or ad hoc basis?**

*Both*

Audit should be performed on an annual basis but we suggest that for the first 2 years of operation that a six monthly audit may be appropriate to ensure that any corrective measures are actually effective

**Q86 - Do you consider that a sharing mechanism should be in place for DCC internal costs?**

Yes

**Should a sharing mechanism be included in the contracts with the service providers?**

Yes

**Q87 - Do you consider that it is appropriate to invite DCC licence applicants to propose KPIs?**

*Partially*

We feel that it is appropriate for DCC licence applicants to propose KPIs as part of the tender process but not for them to determine the final set of KPIs

**Chapter 8: Adoption of Foundation Stage communication contracts**

**Q88 - Are the criteria for adoption of contracts discussed in paragraphs 8.8 and 8.9 appropriate?**

*Yes, broadly*

Adoption criteria - we do support the adoption criteria, but we do note that to the extent in which the data and communications solutions of the contracts to be novated are so intertwined as to be inseparable, or not readily separable into the data and communication provider contracts, there will be novation issues. In this event, the cost burden should not fall to DCC or its service providers or users

Compliant meter assumptions – Our response is based on the assumptions of fully compliant metering systems within a robust assurance framework which truly guarantees interoperability between components of the Smart Meter System and between meter manufacturers. In this case, in theory, only the communications boxes would carry the stranding risk of non adoption

**Are there any additional criteria that should be included?**

*Not obviously so*

**Can quantitative thresholds for any or all of criterion be defined and, if so, how?**

*Yes, but at this point we have not formed a view on how*  
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Threshold definition – we do not have a strong view at this point on the metric or amount of threshold. We do however believe that there should be a threshold or that it should be quite clear that providers of fully compliant meters should not bear the adoption costs of other providers

**Q89 - Do you agree with our approach to identifying the guaranteed adoption volume of Foundation Stage smart metering systems?**

*Yes, broadly based on the assumption that meters are fully compliant*

The methodology is suitable given this particular scenario although it is being calculated on a potential difference in WAN choice. The methodology should be re-visited when WAN choice is made

The consultation methodology should make the assumption that the WAN choice being adopted is different to the enduring WAN choice with a commensurate disbenefit (this is not explicit). The methodology is suitable given this scenario although it is being calculated on a potential difference in WAN choice. We would want to have the methodology re-visited when WAN choice is made (the rationale is covered by Q90 part 1)

**Are the factors we have identified the appropriate ones?**

*Yes, broadly based on the assumption that meters are fully compliant*

On the whole feel the factors are appropriate and have identified a possible additional factor. See detailed Supporting information

Smart Meter benefits in Foundation – benefits do not have a linear relationship with the number of meters deployed as the majority of the benefits identified in the Impact Assessment are contingent on the presence of the DCC. Therefore, Foundation activity will not have the same proportion of benefits

Potential loss of economies of scale for DCC communications contracts – We believe that this would be a risk if the WAN choice in Foundation does not match the enduring WAN choice

Diseconomy of scope - We believe this is defined as the operational cost impact of running parallel communications technologies where the foundation WAN that is adopted does not match the enduring WAN choice for a region and therefore duplicates the support costs. This is separate to the loss of economies of scale note above. However it is important to avoid double counting of benefit here between the contractual cost and the operational cost deltas

Cost of integrating communications contracts into DCC – This is not limited to the DCC cost of connecting and managing Foundation and proprietary communications contracts into the enduring DCC. There may also be enduring costs to the industry of managing a Change of Supply process across DCC and other Foundation service providers that persist after DCC go-live

Operational expenditure cost risk for the adopted contract – This could be significant

Cost of Foundation communications equipment / WAN module – We do recognise

this is as a valid risk criterion, and note that the communications box encompasses more than just the “ WAN module” and therefore has wider risks

Benefit of reducing peak installation rate– We do believe that this is a benefit that should be considered together with the dis-benefits we have described above

**What are your views as to the appropriate values of the various parameters identified in Table 8.1?**

*We do not have a strong view on parameter values*

The parameters are dependent on sets of assumptions, not all of which are grounded at this point. We noted in Q88 our assumption on compliant meters

**Q90 -Do you agree that DCC should be able to decide to adopt communication contracts associated with Foundation Stage smart metering systems in excess of the guaranteed adoption volume providing there is a net benefit to doing so?**

*Yes, broadly*

We believe this is a re-run of the methodology discussed in Q89 part 1, but using contemporary knowledge of all parameters discussed in Table 8.1 of the consultation

**If so, does DCC need to be provided with additional obligations and incentives to encourage DCC to actively pursue such contracts and what factors should DCC take into account in making its assessments?**

*No – on the assumption that DCC is providing a functioning and available alternative service to Suppliers at this point*

Obligation to pursue contracts – There should be no additional obligations and incentives to encourage DCC to actively pursue these unless there is a net benefit in doing so (as per first part of Q90 above)

**Should we specifically provide for suppliers to compensate directly DCC for any costs incurred by DCC or its service providers in the adoption of additional contracts?**

*Yes*

Compensation by suppliers – If a supplier continues to require the adoption of additional contracts despite a DCC alternative service being in place, we believe that, in general, the supplier should be required to bear the additional cost. However, this is contingent on the cause of the contract being created: if the DCC fails or go-live is delayed, which necessitates Suppliers purchasing contracts to provide cover to customers, the DCC contract risk should cover this additional cost. We are assuming that DCC will have sourced an adequate supply chain of communication boxes so that we would not have to provide emergency cover. In other words, we would procure against the certainty of DCC assets being available

**Q91 - What in your view is the most appropriate option for allocating the**

**guaranteed adoption volume across energy suppliers and on the mechanism, including timing and frequency, by which any allocation unused by one supplier should be redistributed to other suppliers?**

*Option 3*

Certainty – this is important. This is provided by option 3

Paragraph 8.32 suggests that if we do lower volumes than our share, the delta would be given away according to the volumes of compliant meters deployed

There is uncertainty over DCC go-live, so if Foundation is extended, we would not be able to deploy any more meters because our share has been given away. Therefore, it would stifle any further deployment and ramp-up of deployment

Therefore, we would only advocate option 3 and would not support the proposals in 8.32

**Q92 - Do you have views as to when Foundation Stage communication contracts should be adopted?**

*The sooner the better*

This will accelerate the provision of guaranteed interoperability between suppliers following a COS event and is to the benefit of the customer

Furthermore, we would suggest that this is also particularly pertinent for COS practicalities when registrations is integrated. We would therefore, define "sooner" as before the migration of registration

## **Chapter 9: Competitive licence application process**

**Question 93 - Do you agree that a four stage process as outlined in paragraph 9.10 is appropriate for appointment of DCC?**

Yes

From a procurement perspective, the process appears to be consistent with the standard minimum timescales as required by legislation and, as long as the process is transparent, then we support it

**Question 94 - Do you consider that applicants should commit to lodge a form of financial security at the invitation to apply stage that would take effect if the licence was granted to the applicant?**

*Yes, broadly*

Whilst our preference would be for applicants to have the appropriate credit rating, we support the proposal that applicants should commit to lodging a form of financial security at the invitation to apply stage. This is a sensible and prudent reflection of

the important role that the licence holder will play in the management of the smart infrastructure. As a point of clarity, we would suggest that, where the applicant is a consortium, the financial security should be pledged by all members of the consortium in a manner that fully reflects their responsibility within the DCC

**Question 95 - Do you agree with the proposals for dealing with changes to consortia including allowing changes up to but not beyond submission of responses to the ITA?**

Yes

The proposals take into consideration changes in consortia members which may either come about in response to unexpected circumstances or where the finalisation of the consortia structure has not been completed. This means that applicants will not be precluded from the application process where they are either not ready at PQ stage, but will be by ITA stage, or unexpected events come about affecting membership which are beyond the control of the consortia. It also gives the consortia an opportunity to evaluate the PQ criteria and assess whether any changes do in fact need to be made in terms of membership, thus accommodating tender requirements. Clearly, it must be beneficial not to rule out good candidates at too early a stage, albeit the process still needs to be efficient in terms of time

Advice from our Procurement team is that, in terms of changes to the make up of consortia, in principle, any changes must be done by the ITA stage, otherwise the process would need to start again. It is also important that the role of the individual member within the consortium is considered- for example, is all risk and responsibility shared equally by the members or is it shared on a non-equitable basis? The replacement of a member of a consortium that made up 10% of the risk

would be a very different matter from one that had been proposing to take on, say, 80% of the responsibility

**Question 96 - Do you agree with the proposal for one overarching confidentiality agreement for each applicant group rather than individual confidentiality agreements for each member of an applicant group?**

Yes

Providing that all relevant parties sign up to one version of the Confidentiality Agreement, so that they are all bound by the same Agreement, we are happy to support the proposal for one overarching confidentiality agreement for each applicant group. The process must be robust enough to ensure that any additions to the applicant group during the process also become signatories to the Confidentiality Agreement

**Question 97 - Do you have any comments on the approach to clarifications and dialogue with prospective applicants?**

Yes



All questions should be open and transparent. All applicants should be aware that if they ask a question that question, and the response to that question, will be published so that all parties involved in the process are aware

**Question 98 - Do you agree with the proposed approach to the pre-qualification stage including the timescale, the information required and the assessment methodology and criteria?**

*Yes, in principle*

The approach is consistent with standard procurement processes and it is noted that the minimum timescales allowed are being used. A couple of observations offered on the process:

- 1) Given that the licence award process and the DCC service provider procurement processes are running parallel and that the DCC will have to manage the service provider contracts, there must be clear updates on the service provider contracts throughout the process. As the DCC will have to „manage“ whoever is appointed by DECC, any risk that the licence applicant may withdraw late in the day must be mitigated, otherwise there will be delay to overall establishment of the DCC
- 2) Where a consortium is applying, the evaluation criteria must be applied to all members of the group, especially if the members are equally and severally liable

**Question 99 - Do you have any comment on the documentation to be provided by applicants for the DCC licence? Is there any other information that you think should be made available to applicants?**

*Yes*

From both a legal and a procurement perspective, our view is that the information to be provided is sensible. The critical point is that, given the tight timescales and the impact of any delay to the overall implementation timescales, every care should be taken to ensure that no applicant can claim relevant information was not made available. If this were to occur it would inevitably introduce risk of delay into the process

**Question 100 - Do you agree with the proposed approach to the Invitation to Apply stage including the timescales, the assessment criteria and their weightings?**

*Yes, in general*

We are generally supportive of the approach and the weightings. However, we would offer the following observations:

- 1) Financial security and letters of credit should be provided for all members of a consortium
- 2) When evaluating the experience of the applicant and the management team, care should be taken to ensure that the „ bid team“ is also the team that will be managing the DCC. Where they are not the same then, perhaps as part of due diligence, steps should be taken to meet the actual management team and their experience should be directly tested

**Question 101 - Do you agree with the proposals for appointing one or more preferred applicants as well as one or more reserve applicants to ensure that there are alternatives in the event that a preferred applicant withdraws or is disqualified?**

*Yes, broadly*

We are generally supportive of the approach, which seems sensible. Our only comment would be that, in order to be sure that bids from reserve applicants do not „ time out“ , there should be a validity period and end date for all bids. This will mitigate any attempt to revisit prices

**Question 102 - Do you agree with the proposal for an optional best and final offer stage in the event that two or more applicants have similar positions?**

*Yes, the approach seems sensible*

**Question 103 - Are there any other specific issues that you think should be considered before grant of the licence?**

*No*

The outlined approach seems sensible and, other than the comments offered in previous questions, we have nothing to add

**Question 104 - Do you agree that in the event of DCC losing its licence the Authority should have the power to fast track the appointment of a temporary DCC? If so, is eighteen months an appropriate maximum time period for the temporary DCC to hold a licence before a new DCC can be appointed via a full competitive process? Which elements of the licence application process could be accelerated or eliminated to ensure rapid appointment of a temporary DCC?**

*Yes in principle*

We are supportive of having the concept of a temporary DCC. The proposal of an 18 month maximum period for such a temporary DCC is also supported. This should be more than enough time for a competitive process to have been undertaken to appoint a permanent replacement DCC. We are of the view that none of the steps for procuring the DCC could be eliminated although, subject to EU procurement definitions of what constitutes an emergency procurement exercise, there may be some opportunity to shorten the timescale as all of the requirements and other parties, such as DCC service providers, will be known