



Department for
Business, Energy
& Industrial Strategy

SMART METERING IMPLEMENTATION PROGRAMME

Government response to the consultation on
non-domestic smart metering policy proposals
and draft legal text

27 March 2018

SMART METERING IMPLEMENTATION PROGRAMME

Government response to the consultation on non-domestic smart metering policy proposals and draft legal text

The Government response can be found at GOV.UK:

<https://www.gov.uk/government/consultations/non-domestic-smart-metering-policy-proposals-and-draft-legal-text>

© Crown copyright 2018

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence.

To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Any enquiries regarding this publication should be sent to us at smartmetering@beis.gov.uk.

Contents

General information	3
1. Executive Summary	4
2. Introduction	6
3. Summary of responses and conclusions	10
Part A - Treatment of large non-domestic consumers under the roll-out duty	10
Part B - Proposed exemption from the non-domestic DCC User mandate	14
Part C – Draft legal text implementing the removal of the DCC opt-out	20
4. Timing and next steps	25

General information

Purpose of this document

This document sets out the Government's response to the consultation on non-domestic smart metering policy proposals and draft legal text, published in August 2017.

Issued: 27 March 2018

Enquiries to:

Email: smartmetering@beis.gov.uk

Smart Metering Implementation Programme - Policy and Consumers Team
Department for Business, Energy & Industrial Strategy,
5th Floor, Victoria 3
1 Victoria Street,
London, SW1H 0ET

Territorial extent:

This consultation applies to the gas and electricity markets in Great Britain. Responsibility for energy markets in Northern Ireland lies with the Northern Ireland Executive's Department of Enterprise, Trade and Investment.

Additional copies:

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

Other versions of the document in Braille, large print or audio-cassette are available on request. This includes a Welsh version. Please contact us under the above details to request alternative versions.

Quality assurance

This consultation has been carried out in accordance with the [Government's Consultation Principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

BEIS Consultation Co-ordinator
1 Victoria Street,
London, SW1H 0ET
Email: enquiries@beis.gov.uk

1. Executive Summary

1. The development of a world-leading smart energy system delivering secure, cheap and clean energy is an important part of the Government's Industrial Strategy¹. As the Clean Growth Strategy² highlights, smart technologies and services will play a vital role in decarbonising the energy sector. Smart meters are a vital upgrade to the nation's energy infrastructure, which will enable these smarter energy systems and allow energy consumers to be better informed and engaged.
2. The rollout of smart meters is not only an investment in our future, it will support the delivery of tangible, and immediate energy-saving benefits for households and small businesses across Great Britain. It is also an important foundation for the Government's and Ofgem's Smart Systems and Flexibility Plan³ which was published last year. This Plan sets out a number of actions to deliver a smarter, more flexible energy system that supports innovation in new smart products and services.
3. The Government is committed to energy suppliers offering smart electricity and gas meters to every home and small business by the end of 2020. The non-domestic smart meter rollout covers around two million sites⁴, the majority of which are microbusinesses and small and medium sized enterprises (SMEs). Smart meters will provide smaller businesses with accurate near real-time information on their energy use, allowing them to pick the best tariff and energy supplier and to switch energy supplier quickly and more easily. Smart meters will also allow smaller businesses to share their actual consumption data freely with whomever they choose, fostering a wider market in energy management services. In addition, smart meters enable both time-of-use tariffs, which will allow businesses with flexible demand to use energy when it is cheapest, and appliances that respond automatically to these price signals.
4. In August 2017, following consultation, the Government decided to require energy suppliers to operate all second generation smart meters ("SMETS2 meters") at smaller non-domestic sites through the Data and Communications Company ("the DCC")⁵. SMETS2 meters and the DCC provide an interoperable solution, allowing smaller businesses to switch energy suppliers readily and easily without losing their smart benefits. This will allow smaller businesses to engage better with the energy market, and consequently demand a better service and lower costs from competing energy suppliers. This contributes to addressing the issues highlighted by the Competition and Markets Authority's (CMA) final report of its energy market investigation.⁶ This found that the energy market for smaller businesses is less effective than that for larger businesses, with smaller businesses experiencing barriers to engaging with the market.

¹ <https://www.gov.uk/government/topical-events/the-uks-industrial-strategy>

² <https://www.gov.uk/government/publications/clean-growth-strategy>

³ <https://www.gov.uk/government/publications/upgrading-our-energy-system-smart-systems-and-flexibility-plan>

⁴ Supply licence conditions require energy suppliers to install smart metering systems (or in some circumstances, advanced meters) at gas sites where annual consumption is below 732 MWh per year and at all electricity sites in Profile Classes 1-4.

⁵ <https://www.gov.uk/government/consultations/further-consultation-on-non-domestic-smart-metering-the-dcc-opt-out>

⁶ <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

5. This document sets out conclusions on the two key obligations that we consulted on last year to implement this decision.⁷ Energy suppliers to smaller non-domestic premises will be required to become DCC Users by 31 August 2018 (the “DCC User Mandate”), albeit subject to an exemption for energy suppliers to large businesses (see paragraph 9 below) and all SMETS2 meters must be commissioned within the DCC system (the “Enrolment Mandate”).
6. These mandates will strengthen the offering for small businesses where these consumers are not in a position to demand a tailored service from their energy supplier. They will ensure that small businesses can access fully interoperable, secure smart meters operated through the DCC infrastructure.
7. Additionally, this response document sets out the Government’s conclusions on other non-domestic smart metering policy proposals that we also consulted on last year. These were designed to give smaller businesses access to the full benefits of smart meters, while at the same time recognise the diverse nature of these energy consumers and the need for proportionate regulation of energy suppliers and other companies supporting energy provision to the non-domestic sector.
8. The Government has decided that energy suppliers will be allowed to offer a choice between an advanced meter and a smart meter to all SME and large business energy consumers, but not microbusinesses. In order to allow those business consumers to make a choice based on the best available information, energy suppliers will have to provide them with complete and accurate information on the differences between the two metering technologies. The Government will review this policy before the end of 2019 to ensure that it is operating effectively and that consumers are able to derive the maximum benefits that are available to them from the smart metering rollout.
9. The Government has also concluded that it is appropriate to exempt some non-domestic suppliers from having to become a DCC User by 31 August 2018 if they supply predominantly large business consumers, and as a consequence supply only a limited number of non-domestic premises covered by the smart metering mandate. Non-domestic only energy suppliers will qualify for the exemption if advanced meters have been installed or are eligible to be installed at all the relevant premises that they supply energy to (in accordance with the energy supply licence conditions). However, exempted energy suppliers must become a DCC User if they intend to install or operate a SMETS2 meter. This decision will give small, specialist energy suppliers the commercial flexibility to decide when to become a DCC User based on the needs and preferences of their larger energy consumer base.
10. In parallel, to support the realisation of smaller non-domestic smart consumer benefits, the Government is committing up to £8.8 million for the development of innovative approaches to energy management, based on smart meter data tailored to the particular needs of smaller hospitality and retail businesses and schools⁸.

⁷ <https://www.gov.uk/government/consultations/non-domestic-smart-metering-policy-proposals-and-draft-legal-text>

⁸ See: <https://www.gov.uk/government/publications/non-domestic-smart-energy-management-innovation-competition>

2.Introduction

Scope of non-domestic smart metering

11. The Government is committed to ensuring that smart meters are offered to every home and small business by the end of 2020. Energy suppliers are responsible, under standard conditions of electricity and gas supply licences ('supply licence conditions'),⁹ for rolling out smart meters to all domestic and small business premises.
12. An updated Cost Benefit Analysis of Smart Metering was published in November 2016. This estimated the costs and benefits associated with the GB roll-out of smart meters and identified a substantial net benefit from the Programme of £5.7 billion for the period to 2030, with the roll-out to non-domestic premises contributing an estimated £2.0 billion.¹⁰
13. The non-domestic roll-out covers around two million premises. These sites are very varied, they include both private and public sector organisations, and range from small shops to chain stores, from small industrial units to schools.

Background to non-domestic smart metering policy

14. Between 2009 and 2014 a rollout of advanced meters to medium-sized sites was mandated. In recognition of this existing market, which brings some benefits to those consumers today, the Government has taken an approach to rolling out smart meters for the smaller non-domestic sector that is slightly different from that taken for the domestic market.
15. One such difference was to give energy suppliers the option to use communications services other than those provided by the DCC for any SMETS2 meters they install at non-domestic premises. This policy has generally been referred to as the "DCC opt-out".

Subsequent developments

16. As key technical aspects of the smart metering system design were finalised, the Government engaged with industry to establish how SMETS2 meters could be operated for non-domestic consumers outside of the DCC in smart mode. For this to work, an equivalent of the DCC's communications hub would be needed to enable communications with the meter, and much of the DCC's infrastructure would need to be replicated. For example, to ensure messages are protected in the way that is outlined in the Great Britain Companion Specification (GBCS)¹¹, an alternative communications provider would need to have the

⁹ See: <https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions>

¹⁰ See: BEIS (2016) Cost Benefit Analysis: Smart meter roll-out for the domestic and small and medium non-domestic sectors (GB), available at <https://www.gov.uk/government/publications/smart-meter-roll-out-gb-cost-benefit-analysis>. Appraisal period 2013-2030.

¹¹ <https://smartenergycodecompany.co.uk/the-smart-energy-code-2/>

technical capability to create messages in the GBCS format so that they can be read by a SMETS2 meter. The capability to support public key cryptography would also be needed to meet the necessary security standards. BEIS was not aware of any alternative provider that is already able, or is planning, to offer such services.

17. In light of these developments and following two separate consultations as well as ongoing stakeholder engagement, in August 2017¹² the Government decided to remove the DCC opt-out. In particular, the evidence supported the position that consumers were unlikely to benefit from the full range of smart metering services if the opt-out was retained. Further, there was no firm evidence of an alternative provider coming forward to deliver an equivalent service to the DCC.
18. Separately, following further stakeholder engagement and in light of other emerging evidence and research, the Government recognised that there may be a case for adjusting other elements of non-domestic smart metering policy. This was to reflect the diversity of non-domestic consumers better, and the nature of the corresponding energy market services. The Government therefore consulted in August 2017¹³ on two policy proposals to address this situation and also sought views on the draft legal text required to implement the removal of the DCC opt-out.
19. In parallel, the Government is taking action to promote the development of the market in energy management products and services based on smart meter data. The Non-Domestic Smart Energy Management Innovation Competition was launched on 30 November 2017. This will drive innovation in the energy services market in three priority non-domestic sectors (hospitality, retail, schools). It will help such non-domestic organisations cut their energy costs and be more energy efficient, enabling them to boost productivity and contribute to UK emissions reduction targets. It also aims to develop and strengthen the market for energy management products and services for smaller non-domestic sites, including both independent businesses and chains.

Responses to the August 2017 consultation on non-domestic smart metering

20. A total of 37 responses were received ranging across the following sectors:

Sector	Number of responses
Comms and Technology (including DCC)	1
Consumer Group	2
Energy Suppliers (large)	6

¹² <https://www.gov.uk/government/consultations/further-consultation-on-non-domestic-smart-metering-the-dcc-opt-out#history>

¹³ <https://www.gov.uk/government/consultations/non-domestic-smart-metering-policy-proposals-and-draft-legal-text>

Energy Supplier (other)	12
Industry agents, including Meter Asset Providers (MAPs)/Meter Operator Providers (MOPs)/Meter Asset Managers (MAMs) and Data Aggregator/Data Collectors (DA/DCs) (plus one combined response)	6
Network Operators	1
Trade Associations	4
Other	5

21. The following organisations responded to the consultation.

BES Utilities	E.ON	Siemens PLC
BPG Energy	Gazprom Energy	Smartest Energy
Cadent Gas Limited	Haven Power	SMS PLC
Centrica/British Gas	ICoSS	SSE
Churches Legislation Advisory Service	IMServ	Stark
DCC	Institute of Directors (IOD)	Utilities Intermediaries Association
Dong Energy	Npower	Wessex Water
EDF	Opus Energy	Combined response from MOP & Data agent organisations
Energy Assets	Regent Gas	
Energy UK	Scottish Power	

22. In addition to the organisations listed above, we received responses from three members of the public and six confidential responses. Section three of this document analyses the consultation responses in detail and sets out the Government's response to points raised and conclusions.

Implementation of conclusions

23. The final draft legal text implementing the policy concluded in this document will be laid before Parliament on 27 March 2018 in line with the procedure under section 89 of the Energy Act 2008.

24. Subject to no objection being raised during the 40-day laying period, we expect to bring the relevant modifications to the Smart Energy Code (SEC) into effect in May 2018.

25. There are 4 annexes to this document:

- Annex A – draft modifications to supply licence conditions
- Annex B – draft modifications to the DCC licence conditions
- Annex C – draft modifications to Sections A, C, E, F, H and X of the SEC; and
- Annex D – draft modifications to Section K of the SEC

26. Each of these annexes sets out the final draft legal text as it would look combined with the most recently published versions of the licence conditions and SEC. The text that has been laid before Parliament is marked up for clarity. The version of the licence conditions and the SEC published at Annexes A – D alongside this document should therefore not be read as the latest in legal effect versions. The 'in legal effect' version of the supply licence conditions and the DCC licence conditions can be found on the Ofgem website and the 'in legal effect' version of the SEC is available on the SECAS website.

27. In addition to the draft licence modification and changes to the main body of the SEC, the August 2017 consultation invited views on proposed associated changes to four SEC Subsidiary Documents. We propose to re-designate these documents with the changes made using the power under Condition 22 of the DCC licence and Section X5 of the SEC. We will consult separately on the timing for these changes.

2. Summary of responses and conclusions

Part A - Treatment of large non-domestic consumers under the roll-out duty

Summary of issue under consideration

The smart metering mandate uses a site-based definition to identify the sites at which smart metering systems should be installed.¹⁴ This definition means that the rollout will reach sites occupied by a diverse range of consumers, the majority of which are microbusinesses and small and medium-sized enterprises (SMEs). However, it also covers larger organisations with multiple premises (multi-sites) some or all of which are covered by the mandate.

Many of these larger consumers are likely to have had advanced meters installed at their premises covered by the smart metering mandate. Advanced meters installed before 5 October 2018 will count towards energy suppliers' roll-out obligations. This is known as the advanced meter exception (AME). The AME is time-limited on the basis that while advanced metering has brought consumer benefits, the full benefits of the smart meter roll-out will only be achieved through the installation of SMETS2 meters and their enrolment with the DCC.¹⁵

However, some stakeholders had argued for an extension to the AME for large consumers on the basis that this would allow these consumers to choose between an advanced meter and a smart meter. Multi-site consumers could then benefit from a unified advanced metering portfolio across all of their sites should they wish. The Government has sought views on allowing energy suppliers to large non-domestic energy consumers to offer a choice between a smart meter and an advanced meter.

Government consideration of the issue

28. The Government has assessed the energy market for large consumers. We have concluded that overall there is evidence of an effective energy supply market for larger consumers as well as an active market for third party energy services, which includes a range of services such as direct contracts for meter procurement, installation and energy consumption data services. These larger consumers tend to be engaged with the energy market and are driving and benefiting from effective energy services in a way that microbusinesses and smaller SMEs are not. On the basis that these consumers would be

¹⁴ Licence conditions require energy suppliers to install smart metering (or in some circumstances, advanced metering) to gas sites where average annual consumption is below 732 MWh per year and all electricity sites in Profile Classes 1-4 (the majority of non-domestic electricity consumers are in profile classes 3 and 4).

¹⁵ See: <https://www.ofgem.gov.uk/publications-and-updates/smart-metering-%E2%80%93-response-prospectus-consultation>

able to make informed decisions on metering solutions, and having regard to the need for proportionate regulation, the Government proposed to allow energy suppliers to offer qualifying larger consumers an explicit choice between an advanced and a smart meter.

29. There is no standard industry definition of the target consumer group and so the Government considered options for a suitable definition that would cover large multi-site consumers only and exclude microbusinesses and SMEs. We rejected a number of criteria, including a minimum number of premises and organisational size (e.g. >250 employees), in part, because of challenges around compliance and enforcement. Instead, we considered an annual minimum energy threshold set at an appropriate level to be the simplest, most effective method to demarcate large energy consumers. We therefore proposed to define such consumers as those with a total annual energy consumption across all of their premises equal to or more than 3GWh electricity and/or 3GWh gas.
30. The consultation sought views on both the proposal to allow energy suppliers to offer large non-domestic consumers an explicit choice between metering technology and on the effectiveness of the proposed energy consumption threshold. We also consulted on the draft legal text to implement this policy, including draft modifications to exempt energy suppliers from the New and Replacement Obligation in supply licence conditions when supplying premises occupied by the defined consumers.¹⁶ This would have the effect of allowing energy suppliers to continue to offer advanced meters and install them instead of smart meters at qualifying premises if the consumer so requests.

Summary of responses on the policy proposal and the proposed definition of large consumers

31. Of the 28 direct responses to this proposal, 25 respondents agreed with the principle of allowing energy suppliers to offer large, multi-site non-domestic energy consumers a choice between a smart meter and an advanced meter for the designated premises captured by the smart metering mandate. Three respondents disagreed with the proposal, on the grounds that the advanced meter population should not be limited.
32. Eighteen respondents were of the view that the proposed 3GWh energy threshold was too high to capture the intended group of larger energy consumers and would exclude large multi-site consumers (also referred to as group customers by some respondents) that could benefit from a single metering solution across their portfolio of sites. For instance, supporting evidence was provided by some respondents, including two independent suppliers and two industry agents, of a number of large consumers, with multiple sites, with energy consumption that would fall close to but under the proposed threshold. Of the thirteen respondents that put forward an alternative energy threshold, eight of these specified a 1GWh threshold, two suggested a threshold above the supply licence conditions' microbusiness energy threshold and three put forward threshold below that of the

¹⁶ Under current supply licence conditions, suppliers to non-domestic premises are not required to replace a smart metering system with another smart metering system (see: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/66569/6860-foundation-smart-market-consultation-doc.pdf). However, this situation will be changed by the New and Replacement Obligation (NRO) once it is activated (which is not expected to be brought into effect before the end of 2018).

microbusiness threshold. The consultation also asked whether the policy should extend to consumers that were related to a holding company by virtue of being a subsidiary of a holding company that met the proposed criteria. Of the five respondents that directly answered this question, three energy suppliers agreed it should be extended to subsidiaries, with two of these noting their agreement on the grounds that these subsidiary companies tend to be large consumers. Two other energy suppliers disagreed – one disagreed with the proposed definition of a group of companies as being cumbersome and the other disagreed because it would be difficult to assess consumers on this basis.

33. There were various views expressed on alternative criteria to define larger energy consumers in a way that would meet the policy intent. While some respondents, including one large energy consumer, agreed that an energy consumption threshold on its own was a useful way to define these consumers, others suggested a combination of criteria, such as an energy consumption threshold plus a minimum number of sites. The suggestions put forward included using one or more of the following criteria:

- Any consumer with an annual energy consumption of more than 1GWh;
- Including all non-domestic consumers, except for microbusinesses (with various definitions of microbusinesses proposed);
- Setting a new energy consumption threshold below the level set for microbusinesses within supply licence conditions, including >25,000kWh, >50,000kWh and >55,000kWh
- Any consumer with multiple sites, including >1, >5 or >10;
- Any consumer with an advanced meter already in situ or occupying a site with an electricity profile class 5 – 8 meter;
- Consumers with meters having specific characteristics

34. We received more detailed datasets from three respondents (a MOP, a DA/DC and a trade association). All three respondents had argued for a lower energy consumption threshold and/or a site threshold. The MOP and the DA/DC argued that their consumers have made an active decision to install advanced meters, across all energy levels and thresholds, and so are engaged with their energy use and should therefore be offered a choice of meters. The trade association provided mean and median consumption and site data for all the non-domestic consumers that its members supplied energy to, but it provided no distinction between those consumers it considered engaged, in line with the policy proposal, and those it considered not engaged.

35. We received fifteen responses to the question seeking views on the draft legal text required to implement the policy proposal. Of these, seven respondents disagreed with the legal drafting as proposed. Three respondents did so as they disagreed with the policy proposal itself and four respondents sought clarity on elements of the drafting. Of these four, two large energy suppliers indicated that the licence conditions should be drafted in such a way as to ensure that the energy supplier offers an explicit choice to the consumer rather than simply providing an advanced meter. Another stated that they could not comment on the legal drafting until the definition of 'Large' consumers is concluded upon. A trade association noted that it is unclear what action the energy supplier must take if the consumer no longer meets the eligibility criteria, and noted that there is an issue where the consumer may periodically move in or out of eligibility over a period of time. They felt that a definition built

on the number of sites would largely avoid this issue, and the eligibility should be taken into account at the time the contract is agreed.

Government response

The Government has decided to allow energy suppliers to offer larger non-domestic energy consumers with sites covered by the smart metering mandate a choice between an advanced meter and a smart meter.

We will define the target consumer group as all non-microbusiness consumers, which means that energy suppliers will be able to offer a choice between an advanced and a smart meter to any non-domestic consumer with a total annual energy consumption of more than 100,000kWh electricity and/or more than 293,000kWh gas, in accordance with the definition of microbusinesses set out in supply licence conditions.¹⁷ Energy suppliers will also be exempt from the New and Replacement Obligation, once activated, when installing a new or replacement meter at premises occupied by qualifying consumers, if the consumer chooses to have an advanced meter installed.

We have also amended the energy supply licence conditions so that when an energy supplier offers a choice between metering technologies it must provide accurate, easily understandable information on any differences between the metering systems. We would expect this to include, as a minimum, a description of the difference between the quality and cost of the metering services as well as information on any potential variation in service or cost following a change of supplier. This will enable the energy consumer to make a fully informed decision in light of all the relevant information. This was prompted by two responses to the consultation, which pointed out that the legal drafting, as it was proposed, did not constitute an explicit choice for consumers between SMETS2 meters and advanced meters, but rather it was an exemption for energy supplier from installing SMETS meters at qualifying consumer premises. We recognise that it is important to enable informed choice from the consumer's perspective.

The decision to use the pre-existing definition of microbusinesses in supply licence conditions widens the proposed target group and covers many of the wide-ranging alternative views on how to define the consumer group. This threshold will ensure that all large, non-domestic consumers, including most, if not all, large multi-site customers (also referred to as group customers) that might benefit from a choice can be offered one. Non-domestic consumers below the threshold are treated differently under the energy supply licence conditions, and, as a pre-existing threshold, it is easier to comply with and enforce. We will no longer include the proposal to extend the policy to subsidiary companies as the final conclusion sets a clear line between microbusiness consumers and those larger consumers with one or more sites above the microbusiness threshold.

¹⁷ Energy suppliers can choose between two microbusiness definitions in the energy supply licence conditions; one which uses the same definition as that used by the Redress Scheme (which is made up of a number of eligible criteria, including the energy threshold criteria); and the other which solely uses the energy threshold definition. Whilst the energy supply licence conditions have been amended so that this policy applies to either definition, indications are that energy suppliers may prefer to use the energy threshold definition.

For the rollout to be successful it is vital that energy suppliers are able to effectively communicate the benefits of smart metering to microbusinesses. We acknowledge that within the wide range of alternative definitions put forward, some industry respondents argued that advanced metering should be offered to all but the smallest of business premises. The argument put forward by some of these respondents that the presence of an advanced meter at a microbusiness premises indicates engagement, is, in our view, not a reliable benchmark. As a group, these consumers tend to be less engaged than larger consumers and are not demanding energy consumers, a position supported by both the CMA and the most recent Ofgem report on the state of the retail market.¹⁸ Additionally, recently published smart metering programme research¹⁹ indicates that engagement with energy consumption data varies considerably across different types of sites, relating to factors including organisational size, energy intensity and staff skills. The smallest organisations (independents) face additional challenges that prevent them engaging with their energy use. The Government’s enduring vision for smaller non-domestic consumers to have smart meters therefore remains unchanged.

Nonetheless, the Government recognises that it is important that consumer benefits are maximised for those organisations that already have advanced meters installed under the Advanced Metering Exception, and for those that are more likely to be engaged consumers, and may now be offered a choice. We intend to keep the energy consumption threshold under review and will engage with stakeholders before the end of 2019 to ensure the policy is operating as intended and that there is no evidence of consumer detriment.

Summary of final legal text affected

Licence section	Content
Electricity supply licence condition 39 and equivalent changes to Condition 33 of the gas supply licence.	39.6. Amendment to the draft consultation legal text to reflect the final policy decision to define non-domestic consumers qualifying for choice as all non-microbusiness, non-domestic consumers with designated premises. The requirement to provide the consumer with relevant information has been added as well as the requirement for the consumer to have chosen not to have a smart meter, but instead have an advanced meter installed.
Electricity supply licence condition 39 and equivalent changes to Condition 33 of the gas	39.13. A change to the title in the draft consultation legal text. The draft legal text is also updated to reflect that the NRO exception applies to designated premises occupied by non-microbusiness, non-domestic consumers. The

¹⁸ See: <https://www.ofgem.gov.uk/publications-and-updates/state-energy-market-2017>

¹⁹ <https://www.gov.uk/government/publications/smart-metering-in-non-domestic-premises-early-research-findings>

supply licence.	exception applies if these consumers have an advanced meter installed or arranged to be installed and have chosen not to have a smart meter or continue to have a smart meter. The licensee must also ensure that the consumer has also been provided relevant information.
Electricity supply licence condition 39 and equivalent changes to Condition 33 of the gas supply licence.	Definitions. Amendment to the draft consultation legal text to include a definition of a Relevant Information and a definition of a Non-Microbusiness, Non-Domestic consumer. Removal of the definition of a group of companies, as set out in the draft consultation legal text.

Part B - Proposed exemption from the non-domestic DCC User mandate

Summary of issue under consideration

Energy suppliers, depending on their business model, may supply either domestic consumers or non-domestic consumers or a mix of both. Those who supply domestic premises were required to become DCC Users by 25 November 2017²⁰ (the DCC User mandate).

In order to implement the removal of the DCC opt-out the Government consulted on the introduction of a DCC User mandate for those who supply only non-domestic premises, whereby they would be required to become DCC Users by 31 August 2018 (see Part C).

However, some non-domestic only energy suppliers specialise in supplying predominantly large non-domestic Industrial and Commercial (I&C) consumers, with multiple premises, some of which are in-scope of the smart metering mandate. These I&C energy suppliers may not be called upon to install or operate a SMETS2 meter in the early years of the roll-out. For this reason, the Government sought views on whether I&C energy suppliers should be exempt from the requirement to become DCC Users by 31 August 2018. This section addresses this proposal.

Government consideration of the issue

36. The Government consulted on the case for exempting energy suppliers who supply predominantly large I&C consumers with multiple premises some of which are in-scope of the smart metering mandate, from the DCC User mandate. There is no standard definition, either in the supply licence conditions or elsewhere, to distinguish these energy suppliers from non-domestic energy suppliers that supply SMEs and microbusinesses. Based on its own market intelligence, the Government proposed that in order to capture the relevant energy suppliers, an exemption should apply to those that supplied energy to 1,000 or fewer designated premises, at which advanced meters had been installed or will be installed in accordance with the Advanced Metering Exception, the proposed large consumer exception (see Part A) and technical exceptions. The proposed exemption would apply until:

- The energy supplier supplied 1,001 or more designated premises, at which point it would be required to become a DCC User; and/or
- The energy supplier intended to operate a SMETS2 meter. It would have to become a DCC User before it could supply energy to a consumer with a SMETS2 meter.

37. The Government also proposed that energy suppliers that qualify for the exemption would not be required to comply with the New and Replacement obligation (NRO) in supply licence

²⁰ Unless subject to the large supplier User mandate date.

conditions. The NRO, once it is activated (which is not expected to happen before the end of 2018), will require suppliers to take all reasonable steps to install smart meters for all new connections and replacement meters at domestic and non-domestic premises.

Summary of responses to the proposed exemption from the DCC User mandate

38. There were seventeen responses to the question on the proposed threshold; six large energy suppliers, five small ones, three industry agents, DCC and two trade associations. Thirteen respondents agreed with the proposal in principle. Five respondents supported the proposal on the grounds that that the cost and complexity of becoming a DCC User is likely to outweigh the benefits for these energy suppliers.
39. However, respondents raised some concerns. Eight out of thirteen respondents to the question on the proposed 1,000 sites threshold were not in favour of it. Two of the large energy suppliers and one MOP argued that the threshold should be removed. Two others - an independent supplier and a MOP - did not directly oppose a threshold, but argued that 1,000 sites was too low and would not exempt all I&C energy suppliers targeted by the policy intent. Although some limited data was provided to support the argument that the threshold could exclude some I&C energy suppliers, there was no other evidence from the responses to suggest a reasonable alternative threshold to capture them all.
40. Respondents also expressed views on the potential impact of the proposed exemption from the DCC User mandate on consumers and market competition – both positive and negative. For instance, two energy suppliers noted that requiring an I&C energy supplier to become a DCC User, i.e. in the absence of the proposed exemption, would create cost and regulatory burdens that may form a barrier to market entry. Two other energy suppliers used the opportunity to raise their concerns about their readiness to transition to SMETS2 meters. On the other hand, three energy suppliers raised concerns about the potential impact on non-domestic consumers of churning to non-DCC User energy suppliers. One energy supplier was concerned that the exception could perpetuate existing technical and interoperability issues found in this market. Another energy supplier noted that the exemption will restrict the number of energy suppliers that a consumer may choose from, where the consumer wishes to have energy supplied via a smart meter.
41. Two respondents were also concerned about how energy suppliers would comply with the policy - most notably what would happen if an exempt energy supplier either accidentally or knowingly gained a SMETS2 meter. For instance, one trade association noted that there was no provision for the situation where an energy supplier supplied energy via a SMETS2 meter inherited as part of a larger portfolio, pending its replacement with an advanced meter. This may mean an energy supplier is temporarily not exempt, pending replacement of the smart meter. Another respondent suggested the removal of the requirement for energy suppliers exempt under the proposed policy to become a signatory to the SEC.
42. We received thirteen responses to the question on the suitability of the draft legal text to implement the proposed exemption from the DCC User mandate. These were from ten energy suppliers, including all the big six energy suppliers, one delivery partner, one MOP/MAP and a trade association. Six of the energy suppliers agreed with the draft legal text and two other respondents were neutral. Of the remaining five responses, two

disagreed with the policy, one used their answer to request an extension to the AME end-date and two others were concerned about enforceability.

Government response

In light of the overall support for the proposal, the Government has decided to exempt specialist I&C energy suppliers from the DCC User mandate. However, taking into account consultation responses combined with the progress that many energy suppliers have made in becoming a DCC User, the Government has also decided to simplify the criteria that energy suppliers should meet to qualify. Accordingly, a site threshold will not be required to demarcate energy suppliers that supply predominantly I&C consumers and those that are likely to supply microbusiness consumers. Instead, it is sufficient to apply a single criterion and exempt any energy supplier that only has advanced meters installed, or eligible to be installed at all of their sites on the basis of technical site reasons (Large Gas meter or current transformer metering) and/or on the basis of existing agreements with the large non-domestic customers that they supply. Energy suppliers will qualify for the exemption until they intend to either install a SMETS2 meter or to operate a SMETS2 meter that churns to them. It is the Government's view that, based on the responses received and an evaluation of market intelligence, this single criterion will capture I&C suppliers, in the simplest and most effective way.

As noted in paragraph 46 of the consultation document the Government will monitor this User mandate exemption and will take action if evidence emerges that this is not operating as expected and is adversely affecting energy consumers.

The Government has also determined that it is no longer necessary to exempt energy suppliers qualifying under the User mandate exemption from the NRO (paragraph 37). Instead, the NRO exemption will apply to non-microbusiness sites (see Government response in Section A). This will mean that when supplying a non-microbusiness premise, energy suppliers will not be required to take all reasonable steps to install a new or replacement meter at these sites, where the consumer has chosen to have an advanced meter installed. And so where a large non-domestic consumer continues to prefer an advanced meter, its I&C energy supplier can continue to supply such meters and will remain exempt from the DCC User mandate. Energy suppliers will still have to take all reasonable steps to install a new or replacement compliant smart metering system at microbusiness premises.

Some respondents sought clarity on a scenario where they have inherited a SMETS2 meter as part of a large consumer's portfolio and therefore they are temporarily no longer exempt. In this scenario, energy suppliers to non-domestic premises have the option to refuse the consumer or, if the consumer is subject to the consumer choice threshold (See Part A), to offer the consumer an advanced meter. As a non DCC User, the energy supplier will be required to

make the consumer aware of any potential variations to the normal smart metering services that the consumer receives, e.g. any potential loss of smart meter data.²¹ In circumstances where an energy supplier is temporarily supplying energy via a SMETS2 meter but intends to replace it with an advanced meter, in accordance with the supply licence conditions, the exemption still stands.

BEIS considered the request to exempt energy suppliers that meet the eligibility criteria for the User mandate exemption from having to accede to the SEC. Under current regulations, any energy supplier that meets the eligibility criteria can apply to Ofgem for a derogation of their duties under the SEC, in accordance with paragraph 48.2 of the electricity supply licence conditions and paragraph 42.2 of the gas supply licence conditions.

Summary of final legal text affected

Licence section	Content
Electricity supply licence Condition 48 and equivalent changes to Condition 42 of the gas supply licence.	48.9. Amendment to the draft consultation text to remove the 1,000 designated threshold criterion for energy suppliers qualifying for the exemption from the DCC User mandate. Change to make clear that the energy supplier remains exempt if advanced meters are installed in accordance with paragraphs 39.10 – 39.13 (the NRO exceptions) as well as qualifying for exemption if advanced meters are installed at all designated sites in accordance with 39.3 – 39.6 of Condition 39.

²¹ See electricity supply licence condition 51.15(b) and gas supply licence conditions 45.11(b)

Part C – Draft legal text implementing the removal of the DCC opt-out

Summary of issue under consideration

Following its decision to remove the DCC opt-out and require energy suppliers to use the DCC for the operation of SMETS2 meters, the Government consulted on the corresponding changes to the smart metering regulatory framework. These were:

- The introduction of a non-domestic DCC User mandate and Enrolment mandate on energy suppliers of non-domestic premises. This would mean that energy suppliers that supply non-domestic premises in electricity profile classes 1 – 4 and/or premises that consume less than 732MWh of gas per annum will be required to comply with the mandates, with a proposed exception for independent, non-domestic only suppliers who meet specific criteria (see Part B above).
- Consequential changes to the DCC licence conditions and SEC (including SEC subsidiary documents) to reflect the removal of the DCC opt-out; and
- Amendments to the DCC charging regime to simplify the non-domestic charging regime by bringing it in line with the domestic charging regime.

Government consideration of the issue

43. Taking each of the proposed changes in turn:

44. The proposed **DCC User mandate** date of 31 August 2018 gave energy suppliers 12 months from the point of publication of the August 2017 consultation to become a DCC User. Evidence from domestic activity indicated that twelve months is a reasonable timeframe for non-domestic energy suppliers to take the necessary steps to become DCC Users. These steps include completing systems testing and privacy audits, and may also include appointing a third party managed service provider to connect to the DCC.

45. The **Enrolment mandate**, which currently only applies to domestic premises, does not in itself require energy suppliers to install SMETS2 meters, but rather requires that any such installed meters are commissioned within the DCC's systems. It came into effect on the date when SMETS2 meters were first capable of being commissioned (i.e. DCC Live, November 2016), but energy suppliers that were not a DCC User at this date are exempted until they become a DCC User. The mandate will be extended to designated premises.

46. **Consequential changes to the DCC licence conditions and SEC. Changes to the DCC licence conditions and SEC will be required to reflect the removal of the DCC opt-out. These include:**

- Amending the definition of a Smart Metering System in the DCC licence conditions to align the definition of Designated Premises with that of Domestic Premises to include a Communications Hub.
- Removing references to the concept of “withdrawal” which currently applies to enrolled SMETS2 meters in non-domestic premises that energy suppliers wish to opt out.
- Modifying the DCC licence condition 22, which currently only applies to domestic energy suppliers, so that the same terms in respect of services provided by the DCC are extended to energy suppliers of non-domestic premises.
- Making consequential changes to a number of SEC Subsidiary Documents.

47. As part of its considerations, the Government also set out its intention not to remove the concept of “withdrawal” and the associated service request functionality (SR8.5 and SR8.6) to opt in and out of the DCC’s services from some of the accompanying SEC documentation, such as the DCC User Interface Specification (DUIS). If references to this functionality were removed, the DCC would have to disable the associated service opt-in and service opt-out Service Requests in its systems, The Government proposed that rather than commence this work at this stage of the Smart Metering Implementation Programme, as other functionality is being delivered, this work would instead be undertaken as part of a future scheduled change. For the short term at least, it was proposed only to change the DCC User Interface Services Schedule to make it clear that no party was an Eligible User for these Service Requests.

48. **Amendments to the charging regime.** Removal of the opt-out removes the risk of domestic DCC Users cross-subsidising non-domestic DCC Users, who could choose the service provider according to the most favourable pricing at the relevant location.²² Therefore the Government intends to simplify the DCC charging-regime by extending uniform pricing to non-domestic energy suppliers.

49. In addition the consultation sought views on the draft legal text making changes to Section K of the SEC to standardise the language so that all references to “Designated Premises” are changed to “Non-Domestic Premises” and to clarify that for the purposes of this section, Non-Domestic Premises means Designated Premises. This is to deliver a consistent usage of all the terms “Designated” and “Non-Domestic” within this section and it will also align with the terminology used by the DCC in its Charging Statements.

Summary of responses to the proposed non-domestic User Mandate date of 31 August 2018

50. Of the fourteen responses to this question, seven (five small suppliers, one large energy supplier and a MOP) disagreed with the proposed User mandate date. Seven respondents (four large energy suppliers, one MOP and the DCC) broadly agreed that twelve months was a reasonable timeframe and one large energy supplier was neutral. Of those that disagreed, three energy suppliers noted that it would be challenging to meet the date if they

²² See page 14 for further details:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517985/DCC_opt-out_further_consultation_final.pdf

were starting from a standing start. However, no firm evidence was provided to support this assertion. The remaining respondents who disagreed generally did so for reasons to do with broader objections to the policy rather than the proposed timeframe.

Summary of responses to the draft legal text to implement the removal of the DCC opt-out

User mandate and Enrolment mandate

51. Six out of the ten respondents that gave views agreed that the proposed amendments to the DCC User mandate and Enrolment mandate in supply licence conditions will implement the removal of the DCC opt-out. Three respondents that disagreed did so because they disagreed with the policy itself, rather than whether or not the draft legal text was appropriate. The remaining respondent sought clarity on some of the draft legal text.

Consequential changes to the DCC licence, SEC and supply licence conditions to implement the removal of the DCC opt-out

52. Similarly, eight out of the nine responses received were in agreement that the proposed amendments to the DCC Licence and the SEC will effectively implement the removal of the DCC opt-out. The ninth respondent, an energy services provider, took the opportunity to object to the removal of the DCC opt-out rather than answer the question itself.
53. We received seven responses to our proposed treatment within the SEC of Service Requests, "Service Opt In" and "Service Opt Out" and the Smart Metering Inventory (SMI) Status of "withdrawn". All of the seven respondents agreed with the proposal not to remove the associated service request functionality from the accompanying SEC documentation at this point. One energy supplier noted that while they understood the rationale they were supportive of plans to remove this functionality as part of a future scheduled change.

Changes to the DCC charging regime

54. Eight out of the nine respondents did not object to the proposed amendments to the DCC licence and section K of the SEC, which will deliver uniform fixed pricing to non-domestic premises. One respondent disagreed. In their view the drafting created a divergence from the supply licence conditions. We do not agree this is the case, rather, the drafting implements the policy intent of removing regional charging for non-domestic suppliers. The DCC expects that the changes to the DCC charging regime for non-domestic suppliers will take effect from around late Summer 2018. DCC Users will be updated on this change by DCC in accordance with the process set out in condition 19 of the licence.

Government response

Overall, the consultation responses raised no substantive issues on the draft modifications to the legal framework that are required to implement the removal of the DCC opt-out. The Government will therefore lay the final draft legal text before Parliament, in line with the procedure under section 89 of the Energy Act 2008 on 27 March 2018.

The Government has also decided to retain the proposed DCC User mandate date of 31 August 2018. It is important that non-domestic energy consumers are able to access

interoperable smart meters as soon as possible. To that end, and even prior to the August 2017 consultation, it was clear that many non-domestic energy suppliers were already taking the necessary steps to become DCC Users. The Government has been encouraged by the step-up in progress that energy suppliers to smaller non-domestic premises have made to prepare to become a DCC User since the publication of the consultation in August 2017. It is better for consumers that this progress is maintained and when combined with the proposed exemption to the DCC User mandate, we consider that the remaining energy suppliers that must comply with the DCC User mandate should be well placed to meet this obligation. In terms of enforcement, a failure to become a DCC User by the deadline in the licence is a breach of that condition. Ofgem will take any enforcement action in light of the relevant circumstances of each case and in accordance with their Enforcement Guidelines.²³

Summary of final legal text affected

Licence section	Content
Electricity supply licence Condition 48 and equivalent changes to Condition 42 of the gas supply licence.	48.8. In line with the draft consultation legal text, this condition is extended to require suppliers to Designated Premises to become DCC Users by 31 August 2018 (subject to the exemption discussed in Part B).
Electricity supply licence Condition 54 and equivalent changes to Condition 48 of the gas supply licence.	54.3 In line with the draft consultation legal text the enrolment mandate is extended to cover all smart meters installed at designated premises.
DCC licence conditions	<ul style="list-style-type: none"> • Licence Condition 18 is amended to reflect the proposed changes to the charging methodology. • Licence Condition 22 is amended to require the SEC to cover services provided to all smart meters, not just those at domestic premises.
Smart Energy Code	<p>Changes to the following SEC sections to remove the concept of “withdrawal”:</p> <ul style="list-style-type: none"> • Section A • Section C • Section E • Section F • Section H • Section K

²³ <https://www.ofgem.gov.uk/publications-and-updates/enforcement-guidelines>

	<ul style="list-style-type: none">• Section X
Smart Energy Code – Section K	Changes to the following conditions within Section K to reflect the extension of uniform pricing to the non-domestic sector: <ul style="list-style-type: none">• K3• K5• K6• K10

3. Timing and next steps

55. The Government intends to lay the draft modifications to implement the removal of the DCC opt – out and to reflect the final conclusions in this response document on 27 March 2018. Subject to the Parliamentary process the modifications will come into force in early June 2018. We also propose to re-designate the changes to the SEC Subsidiary Documents using our powers under condition 22 of the DCC licence and Section X5 of the SEC. This will be timed to coincide with the date upon which the licence and main body SEC changes take effect and we will consult on the precise timing of this re-designation in due course.

