

ESTA RESPONSE TO:



SMIP: Consultation on the detailed policy design of the regulatory and commercial framework for DCC DECC

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ESTA Energy Services and Technology Association

ESTA is the UK Industry Body representing suppliers of products, systems and services for Energy Management. The 120 members cover Energy Consultants, meter, AMR and controls manufacturers through to full Energy Services/Contract Energy Management.

ESTA is engaged with UK Government policies on Energy and Climate Change, The Green Deal, Energy Performance of Building Directive, Part L Building Regulations, Display Energy Certificates, Carbon Reduction Commitment, Energy Services Directive and the roll-out of smart and advanced meters. It also provides UK input to developing international energy management standards and Chairs several BSI committees.

ESTA members are key to the realisation of a low carbon, secure and affordable energy future. Our members provide equipment, systems and services for energy management to reduce energy demand at source and including renewables.

Our response is a majority consensus of the members involved. Where ESTA members respond directly, they may offer differing opinions on some issues which we respect as expressing their own definitive view.

SMIP: Consultation on the detailed policy design of the regulatory and commercial framework for DCC

Response covering specific questions as laid out in the consultation.

Chapter 2: Proposed regulatory approach to DCC

1. 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.

The scope of the prohibition appears too wide. For example: What happens to the additional features in a meter that a non-supply company may offer services based on? We would suggest the scope be narrowed to "in performing communication of data required for regulated supply purposes". Otherwise, suppliers would retain the exclusive right to develop additional value, which would be limited by comparison.

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

The end consumer or appointed agent who may require to phone or email meter readings if the comms is unavailable or disrupted.

3. Do you have any other comments on the form of the licensable activity?

The need for innovation to be continually enabled and challenged.

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

The physical characteristics of gas and electricity meters are very different (because of battery power) as well as the information needs of the consumer. The technical options for communicating with each will be different and may effect what can be generalized in a single license.

6. Do you agree with, and have any comments on, the proposed approach to establish all of the DCC licence conditions as "special" conditions?

The difficulty will be the Authority (we assume Ofgem) having the sole right to modify. Since the prime motive to do so will be to solve license holders business issues from a regulatory perspective, there will need to be input from DECC as well as key stakeholders to ensure the consumer and UK PLC as a whole will benefit from modifications

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

In regard to the Data Transfer Service (DTS), we believe that it should only have the potential to overlap the DCC if the DCC seeks to establish a mirror service to

communicate between itself and all the users (as opposed to communication with the meters which will be via the WAN). It should be noted that the DTS also carries data flows between industry parties the nature of which would not normally flow between the DCC and its users.

Chapter 3: DCC licence conditions

10. Do you agree with the proposed general objectives of DCC set out above?

In principle we agree, however it is difficult to see how this might be enforced. What is the extent of the provision "services to encourage demand side solutions" measured against? Will there be a standard "performance contract"? This would appear to limit demand reduction potential.

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

Many changes are envisaged as the roll-out progresses. It is therefore likely to be easier to modify special conditions in the DCC license than in the specific Acts.

12. 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?

How can an infrastructure of such national importance ignore the requirements of a smart grid? It is understood for example that the main purpose of the contactor/valve was to assist in better grid control. If the networks are not considered now, why is the contactor still a requirement ?

13. Do you agree with the approach proposed in relation to the protection of consumers interests?

There should be a provision that if consumers are able to make use of additional energy savings services elsewhere (such as in non-domestic) then these services should be available in some for in the domestic arena.

14. Do you think DCC should have a separate objective to promote (or facilitate) energy efficiency?

In principle yes, however, whilst we believe that the DCC should help to encourage and facilitate a competitive market in energy efficiency, we would raise concern in regard to a direct objective to promote energy efficiency which could lead to conflict with its requirement not to compete in user markets.

15. 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, but the prohibition should not immediately reflect this. In other words there should be an area of development which is covered under the license but also accessible to other parties until services are well enough defined to be prohibited outside the license. This will allow the market to continually challenge what is available for UK PLC in terms of energy best practice.

16. What are your views on the SEC Applicable Objectives set out above?

3.45(f) „An objective related to promoting or facilitating competition in energy efficiency, metering services and other energy related services" is often sacrificed in order to overcome challenges elsewhere in the programme and should be seen as core to delivering the benefits surrounding the smart meter programme.

17. Do you agree that the SEC should be designed to take into account consumers" interests by meeting its applicable objectives, rather than having a explicit objective related to the protection of the interests of consumers?

No, the interests of consumers should be one of the objectives. This would allow poor performance across the industry to be better challenged.

18. Should there be a SEC objective related to promoting (or facilitating) efficiency of energy networks?

Yes.

19. Do you think the SEC should have a separate objective of promoting (or facilitating) energy efficiency?

Yes. The wording of such an objective should support and encourage an open and competitive market in energy efficiency.

20. Do you agree with the definitions of the services that DCC should be required or permitted to provide?

It should be made clear which are required and which are permitted. Is "permitted" activity subject to similar prohibition conditions? If so the consumer may never see it.

However, the difficulty with the ability of the DCC to offer terms and hence compete in markets outside of domestic smart metering focuses around proposed charging regimes and the potential for conflict with its" stated aims to facilitate competition in energy efficiency, metering services and other energy related services.

Under the proposed charging regime, a significant proportion of the DCC and service provider overall costs may be recoverable under a fixed-cost allocation across energy suppliers and network operators. Accordingly, it would be possible to compete on unfair terms in these other areas by effectively cross-subsidising its" rates via its" fixed-cost recovery mechanism.

Either the element of fixed-costs recovery should be marginal (more of which later) or a very robust (external) audit system introduced to ensure that DCC quoted rates in these areas are fully cost-reflective and take into account a fair share of all DCC and service provider costs.

21. In relation to which non-compliant metering systems should DCC be required to offer services?

"require" should be used for any service which a supplier is likely to choose not to provide from commercial drivers alone

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

"permit" should be used when a supplier would anyway choose to provide the service.

23. 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?

Transparency and detailed commercial terms should be made available not only for elective and value added services but also for the mandated ones. This assures the consumer is receiving value from the service he is required to accept.

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?

Bilateral arrangements are preferable if the service is not subject to prohibition. This will help the market drive DCC to provide a better service.

25. 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).

The Open Pipe for as yet unspecified services such as water metering and demand control.

26. 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, provided that the procurement is not exclusive to DCC (i.e. that prohibition does not apply)

28. Do you agree that DCC should be required to produce a procurement and contract management approach document?

Yes.

29. 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.

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

There seems to be a lot of loose caveats e.g. "undue", "permissible de minimis" - the shareholding should extend to "consortia" with similar business interests e.g. telcos or suppliers, for example it would be inappropriate for the Big 6 to jointly own the DCC.

We also support the prevention of the DCC from being a user as defined in 3.106 i.e. prohibiting the DCC from receiving services from itself or undertaking any of the activities of users.

31. Are any specific provisions needed which require DCC not to discriminate between service providers? 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?

It is likely that instances will occur where there is discrimination, although it is impossible to make a definitive list. We would suggest that a provision is included, and to maintain a list where it has previously occurred and intervention has been required.

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

We agree that the body with exclusive responsibility for procurement of services should not also be affiliated to providers of that service - that is diligence and common sense.

33. 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?

It an ideal world it should be zero, however see 34) below.

34. 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?

The 20% shareholding rule, should be implemented to prevent any industry related group achieving undue influence over the DCC through ownership. Such a group could be a single group of user-types (e.g. suppliers, network operators) or a group of service providers individually operating under a de-minimis arrangement.

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

DCC costs should be transparent; this would not be achievable if there were not business separation because of the possibility of cross subsidy.

36. Should DCC be prohibited from using confidential information for any purpose other than the licensed DCC activity? Should DCC be obliged to impose this restriction on service providers contractually?

The restriction should be further than this. It should not be used for any purpose other than that for which it was provided. This may be a subset of "licensed DCC activity"

37. 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?

To the extent that it provides full transparency to the consumer for the service provided.

39. 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?

Insurance against early license revocation is unlikely to be achieved by financial security alone, simply because of the enormity of the project and the number of variables / dependencies / liabilities. A legal review would probably incur costs of a similar order. We would recommend consideration for more than one licensed provider, or minimising prohibition to ensure that if the licensed provider did not perform it would not be difficult to continue the service provision. Metrics for performance and cost could include what is being achieved in parallel in the non-domestic sector.

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

Frequent and prompt publishing of operating accounts.

42. 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.

44. Do you agree that it is appropriate to grant the initial DCC licence for a ten year period?

10 years would seem to be ideal, but it is too early to define this without better information from the bidders. If the DCC cannot adapt to new energy requirements then 10 years may seem a long time to wait.

45. 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?

No, this should be determined through DECC.

47. Do you agree that DCC should be required to ensure that any critical services can be transferred to a successor?

Yes.

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. Provided sufficient cover is in place to continue the service from another provider or from non-prohibited providers

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?

No. This would close off input from parties with existing established infrastructure too early, and thus prevent the lower risk incremental approach to roll-out.

51. 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?

No. See 50). Meter point / supplier registration is already being provided - it is unnecessary to "oblige" a new party to provide that service. The obligation should only be included if it is considered that the DCC could provide better value than the existing provider. This requires a certain pre-negotiation with existing parties who have such infrastructures, without prejudice to them being awarded continued contracts

52. 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?

We are not aware of the current commercial arrangements or the performance of the existing provider of the service, but would always want such performance to be challenged. However we would not want its replacement to be authorised unless it was clear that the new provider could perform better.

In other words existing providers should be given first refusal of bidding to DCC for the contracts they are already running, and should be briefed accordingly with what the new requirements might be. Our perception is that currently many of these parties (generally speaking), are not as well informed regarding such possible developments.

53. 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?

It should be a question or permission rather than obligation. Most DCC bidders would wish to take on a service like this, so why make it an obligation?

54. What dispute mechanism would be appropriate to apply to disputes involving DCC and who should be enabled to determine such disputes?

Ofgem initially, but if all main license holders agreed at the expense of the consumer or UK PLC, then it would need to revert to DECC.

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.

56. Do you have views on the additional conditions discussed above?

Promotion of competition is different from preparing to take on the activity itself - is there a view that DCC may take on these activities in the future?

57. Are there any additional conditions that you would wish to see included?

In addition to an Open Pipe, we also believe that the condition noted in Q55 should be extended to metering, metering related data (outside of the prohibition area) and the provision of energy related services.

Chapter 4: Revenue requirements

58. 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?

It depends whether the fast-track process will be in the best interests of consumers and UK PLC.

59. 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?

If it is planned to replace the current provider of meter point / supplier registration it would be useful to know what the alternative costs are to justify such a replacement.

63. 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.

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

Suppliers not supplying into DCC mandated sites should not be charged DCC internal costs.

65. 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.

It is not only network operators that would provide and take services to/from the DCC - there are many other accredited agents. There should be a mechanism during transition and foundation to allow these agents to charge DCC for their services, and opt to take services from the DCC, or if mandated, have a say in assessing its performance against value. This will smooth the transition and ensure core competencies of existing parties are properly retained.

66. Do you agree that DCC should only begin to charge users for communication service providers' costs from "go-live"? Please provide reasons as to why this is or is not appropriate.

Yes. A consumer will not receive benefits from a smart meter until he receives one, or go-live, whichever is the later, so should not be expected to pay for it until then.

In addition, we strongly believe that the communication service provider should be remunerated through a „rate card" approach. There is sufficient certainty regarding the take-up of core services associated with business as usual (e.g. cyclic meter reads) to allow reasonable modelling of forward income stream.

Whilst we appreciate that the cost model of the comms provider could be front-end loaded (dependent upon WAN solution/s chosen), we believe that the financing of any required cash-flow over the period of the contract would be an acceptable risk to the type of companies likely to bid for this service.

The more extreme elements of risk (low take-up of certain core services, delayed roll-out) could be covered by clear assumption statements by bidders and annual re-opener mechanisms should key volumes vary in excess of set trigger percentages. Risk of initially economically attractive tenders turning uneconomic should be covered off through robust „what if“ financial modelling at tender stage.

We strongly disagree with the comments in 5.8 where it is proposed that WAN fixed costs would need to be recovered from users irrespective of actual use of core services – this would disincentivise a comms provider from encouraging wider use of DCC services through innovative and cost-effective pricing mechanisms as would exist with a rate card approach.

The fixed-cost guaranteed recovery model also heavily risks conflict with the objective to avoid distorting competitive markets in non-core and elective services. It is the contractual „norm“ when tendering for services of this magnitude for bidding parties to share in the risk of final outcome (indeed such risk is often passed on totally to service providers).

67. 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”? Please provide reasons why this is or is not appropriate.

Does this imply that communication service providers are not allowed to recover fixed costs? It largely depends on what the service provider has already, what his planned implementation is, and negotiations around his contract. There will be up-front development costs for data service providers, but this can be minimised by using existing providers. GSM providers largely have already made network investment.

Conversely we would expect ongoing costs to reflect what initial fixed cost there were. The bids should be transparent in this respect. We should be very clear how future-proof the systems will be, and how much ongoing costs we will expect to build into new requirements. This is often something that is overlooked in projects of this size. We would like to see evidence from the start that the technology and underlying operating systems and data management will not cost significantly when each new requirement comes along.

68. 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? If not, what is your preferred option and why?

We don't believe any costs should be passed to the consumer until a smart meter is installed and proved to be interoperable. Otherwise you will get suppliers building their own infrastructures, serving their business requirements, without accountability to the consumer who is paying for it (see our separate response on interoperability in the associated consultation).

69. Do you have a view on how any additional costs resulting from suppliers exceeding their rollout plans should be allocated? 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)?

If 68) is followed this is no longer an issue

70. Do you agree that network operators should be charged in line with their market share?

This depends on traffic specific to a network operator. The stresses are different across the country, and network operators may choose to use the asset in different ways to support their network. There are still many services yet to be defined (e.g. load shedding, load switching relays, etc). In this case a tariff based on amount of data would be more appropriate. That is how GPRS works today.

Chapter 5: Charging methodology

71. 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?

No. See 66).

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

Yes, if that business model works for the provider, but it must be transparent.

73. Do you agree that the proposal for postage stamp charging is consistent with the objectives of the smart metering programme?

Yes but on location only, not on volume of traffic

74. Should postage stamp charging apply to all users including network operators?

As 73)

75. Do you agree with the proposed charging principles?

We support 5.38(a) „...the charging methodology facilitates competition; and does not restrict, distort, or prevent competition in the supply of energy, provision of energy related services or energy distribution;“

76. 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, and it should be enforceable.

78. Do you agree with the proposals to charge users for extensive assessment and design work in relation to AMRs? Should a similar approach be adopted for other elective services offered by DCC, regardless of the user accepting the service?

Agree for AMR and other elective services.

79. Do you agree that “a second comer principle” can be applied?

Not appropriate if 78) is followed

Chapter 6: Core services – WAN requirements

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

there are many ways the volume of data can be reduced, without reducing the amount of information. Meter vendors are experienced with communicating using a variety of very low bandwidth technologies, and the techniques will vary depending on the function and the communications mechanism used. This is another benefit charging on data volume will have - the industry will be incentivised to reduce data volume. In addition an Open Pipe approach will allow meter vendors to use the compression and other techniques that they are already using in working systems today. Looking at this from just a system approach will cause these opportunities to be ignored.

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

Control of load shedding relays, messages to consumer, management of export cut-out, battery status, component failure, HAN status, tamper detect, site visit, display sequence, registers names, pulse output value, multiplier, harmonic alerts, water meter, channels, outage detect, there will always be more and the system must support adding new features to meter and Head End (and remain unchanged), so that vendors can introduce these features without continued review.

Chapter 7: Performance incentives

83. Please provide comments on the incentive regime proposed for DCC.

Independent audits should be completely independent and subject to public scrutiny

84. Do you consider it appropriate and feasible for the SEC panel and DCC to negotiate KPI targets?

This depends on the final make-up of SEC and who wins the DCC contract. In an industry with a small number of very influential players such negotiation needs to be realistic, not just agreed between parties.

85. Do you have views on the use of an independent audit of DCC performance? Should this be on a regular and/or ad hoc basis?

It should be on a regular basis where all complaints / issues are reviewed.

86. Do you consider that a sharing mechanism should be in place for DCC internal costs? Should a sharing mechanism be included in the contracts with the service providers?

Sharing mechanisms may disadvantage small users of the DCC, e.g small suppliers or ESCOs.

87. Do you consider that it is appropriate to invite DCC licence applicants to propose KPIs?

Yes, it would provide a better idea of their commitment to a working metering market. However, DECC should reserve the right to add any (KPIs) that may be needed, including after contract signing to aid in the review process.

Chapter 9: Competitive licence application process

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?

This may deter the value offered - it would be better to ask the bidders to propose one.

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, provided DECC understand the interests of consortia members

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, individual confidentiality agreements can be made between consortia members and the lead if necessary.

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

Yes, except that confidential clarifications need to be properly justified and accepted. It is better if they are anonymised rather than withheld.

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, these are good standard public sector procurement processes.

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?

The more documentation proposed on change management and cost implication the better - this is certain to be one of the biggest issues in the cost against value equation.

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

Yes as 98).

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.

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.

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

How close the proposal is to what UK PLC need, the level of uncertainty in future needs, and how well the proposal will meet these.

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?

Ongoing revalidation of runner-ups proposals, together with updates if necessary.
