

**CONSULTATION ON THE CONSUMER ENGAGEMENT STRATEGY  
SUPPORTING SMART METERING  
SCOTTISHPOWER RESPONSE**

**Question 1: Are these the right aims and objectives (paragraphs 2.12 – 2.13) against which to evaluate the Government's consumer engagement strategy for smart metering? Please explain your views.**

We broadly support the high level aims and objectives set out in the consultation. However, further clarity is still required with regard to scoping out roles and responsibilities, funding framework and determining detailed ground-level activity.

While reference is made to a number of parties being responsible for the successful implementation of smart metering (not just suppliers) we would expect accountability to specifically extend to Government, consumer bodies and other key interested parties.

We would also welcome further clarification with regard to the statement "and determine how smart metering consumer engagement can help promote wider changes to the energy systems and markets" and how it is thought this can be achieved. It is not clear to us that the Government has the powers under section 88 of the Energy Act 2008 to make suppliers accountable for such wider changes (see our response to Question 7).

**Question 2: What are your views on focusing on direct feedback, indirect feedback, advice and guidance and motivational campaigns as behaviour change tools? What other levers for behaviour change should we consider? (See also Appendix 1.)**

Suppliers have been providing energy efficiency information to customers over a number of years using different media, but with little tangible evidence that the average customer has changed their behaviour in response. We therefore agree that as well as providing direct and indirect feedback via smart technologies, it will also be necessary for an appropriate party to provide guidance and motivational campaigns as behaviour change tools.

We have undertaken customer research which has concluded that customers have very different needs:

- some are minded to make behavioural change;
- some would be prepared to implement behavioural change; and
- some would be unwilling to make any changes to their behaviour.

Our research concluded that resistance to behavioural change could be overcome through further education around consumption patterns. However, there is an associated risk that this could be short-lived as the vast majority of customers involved in the research did not feel that they would sustain sufficient levels of change to achieve a reduction in energy consumption reduction over the long term.

While we welcome this activity, it is not clear to us that either advice on guidance on energy efficiency, or motivational campaigns, are within the vires of section 88 of the Energy Act 2008. The attempt to square this circle in paragraph Q.15 of the draft licence condition seems to us to be rather artificial and does not (and could not) empower the CDB to undertake energy efficiency advice or motivational campaigns unless they were closely linked to the operation of the smart meter. While that would not stop voluntary action in this area, it cannot be compelled by licence changes made under section 88.



**Question 3: What are your views on community outreach as a means of promoting smart meters and energy saving behaviour change?**

We think that community outreach could be a valuable part of the communications mix, though we think that it cannot be required under section 88 licence powers for purposes other than those associated with the provision, installation or operation of smart meters.

We look forward to working with relevant parties to develop smart metering messages where the focus must be on:

- co-ordination;
- consistency of message; and
- cost control.

Community outreach initiatives should be the primary means of contacting, however this is currently a very broad term. It would add further clarity to split it down into co-ordination activities i.e.

- coordination with trusted third parties in the community;
- coordinated delivery; and
- Initiatives targeted at distinct community population.

Generic literature (to the extent within powers) could be produced by the CDB for community groups to send to their audience, including the CDB contact number if customers require further support.

We would welcome the opportunity to work with community organisations representing vulnerable customer groups to ensure they are engaged through the most appropriate and effective means.

**Question 4: Have the right evidence requirements been identified for Foundation learning? What other evidence or approaches to research and trialling might we consider?**

We are supportive of consumer engagement pilots to test and learn more about:

- the ways in which messages can best be communicated to customers;
- which initiatives have the greatest impact on their behaviour; and
- the best ways to anticipate and address any customer concerns.

We note that this approach was adopted by Digital UK which reportedly returned multi-million pound savings in terms of consumer engagement costs.<sup>1</sup>

We would welcome working with consumer bodies in order to gain further insight and would suggest they are engaged in appropriate test and learn activities during Foundation. We would propose that CERG monthly meetings should be used to highlight and address any key concerns. CERG should be used as a means of sharing lessons learnt and debating/resolving concerns raised by suppliers, consumer groups etc

Across summer 2012, we are looking to launch a number of new customer feedback initiatives which cover a range of topics including a specific focus on smart metering. Findings will be used to further enhance our consumer engagement strategy.

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<sup>1</sup> [www.digitaluk.co.uk/data/assets/pdf\\_file/0011/19388/DUK\\_Copeland\\_ReportWEB010508.pdf](http://www.digitaluk.co.uk/data/assets/pdf_file/0011/19388/DUK_Copeland_ReportWEB010508.pdf)



**Question 5: What are your views about the desirability of the Programme, or other independent parties, making available information on different suppliers' installation packages and their impacts? When might this best be introduced?**

Care must be taken to ensure that the correct balance is struck between informing customers of supplier approaches and disclosing information at a time when it may be commercially sensitive. We believe that it is currently not appropriate for the Programme to make such information widely available and is a matter for suppliers on an individual basis. This requirement can be reviewed on an on-going basis as the Programme develops.

**Question 6: Do you agree that a centralised engagement programme, established by suppliers with appropriate checks and balances, is the most practical solution given other constraints? If not, what other practical alternatives are there?**

In principle, we agree that a centralised engagement programme will offer the independence necessary to manage customer messages across Great Britain during mass smart meter roll-out. However, we do not agree that accountability for changing customer behaviour should be placed solely on suppliers or that it is within the powers of section 88 to do so. We believe that encouraging customers to behave differently is the responsibility of many parties given that customers have very a variety of motivations. We therefore believe the best approach would be to involve Government, suppliers and relevant consumer groups working collaboratively to establish and manage the Programme.

We propose that a robust set of governance measures should be agreed and monitored on a regular basis. We would also request that all reporting metrics should be included within the Reporting and Monitoring work stream.

We believe it is necessary for the Government to undertake a full review of the Programme's Impact Assessment to ensure activities and associated costs of consumer engagement activities are clearly and accurately reflected. This should include the costs and benefits associated with the Central Delivery Body.

**Question 7: Do you think that suppliers should be obliged through licence conditions to establish and fund a Central Delivery Body or would a voluntary approach be preferable?**

#### Voluntary approach

We can see considerable merit in a voluntary approach and believe DECC should engage with suppliers to explore whether a voluntary approach to establishing a CDB would be feasible, before committing to a mandatory approach. We believe a voluntary approach would be more flexible, less bureaucratic and more likely to deliver a cost-effective solution. It should also be quicker to get a voluntary body up and running. It might make sense to adopt a voluntary approach initially, with the option to formalise this through regulation at a later date.

However, should DECC decide to proceed with a mandatory approach, we have the following comments.

#### Legal vires

If DECC decides to proceed with a mandatory approach, we assume it will use its powers under section 88 of the Energy Act 2008 to amend licence conditions etc in respect of smart meters. Section 88 (2) states that:



The Secretary of State may exercise the power [...] for the purpose only of —

- a) requiring the holder of a licence to provide or install, or facilitate the provision, installation or operation of, meters of a particular kind, or
- b) requiring the holder of a licence to make arrangements related to the matters mentioned in paragraph (a).

An important consideration will therefore be the extent to which the ambitions outlined in the consumer engagement strategy fall within the Secretary of State's *vires* under section 88(2). Many of the activities envisaged in the strategy sit comfortably within scope, for example:

- raising awareness of the nature and benefits of smart meters - since this will lower consumer resistance and thus facilitate installation;
- countering any negative publicity about smart meters – for the same reasons;
- educating consumers about how to operate smart meters, including any functionality offered by the IHD for providing feedback on energy consumption.

However, it is less clear to us that it would be within DECC's *vires* to mandate activities such as:

- encouraging or motivating consumers to save energy (except to the extent that this is implicit in the operation of the smart meter);
- providing energy efficiency advice and guidance;
- encouraging any other form of behavioural change.

#### Licence condition or code obligation?

As an alternative to the proposed licence condition, DECC could consider inserting an equivalent obligation into the Smart Energy Code (SEC).<sup>2</sup> This would potentially be more flexible than a licence condition, as changes could be managed through SEC change control procedures rather than formal licence modifications. An obvious risk with this approach is that the SEC may not be in place in time to plan and establish the CDB. However, this would be less of a problem if DECC were to proceed initially on a voluntary basis.

#### Obligation to deliver or obligation to fund?

The draft licence condition gives relevant suppliers responsibility for delivering the objectives of the CDB but no powers to control it. DECC should decide whether it wishes suppliers to deliver the objectives, in which case they need to have an appropriate level of control, or whether it wishes suppliers merely to fund the body, in which case their responsibilities should extend no further than that.

The main motivation for positioning the CDB as an 'independent' body appears to be to gain the trust and attention of consumers who may otherwise be suspicious of messages from energy suppliers.<sup>3</sup> We can understand this motivation, but do not believe it should be an overriding consideration, and in particular we do not believe that this type of independence would be incompatible with suppliers having a substantial role in the governance of the CDB.

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<sup>2</sup> Section 88(1)(e) of the Energy Act 2008 gives the Secretary of State the power to modify 'a document maintained in accordance with the conditions of licences under section 6(1) of the Electricity Act 1989 or section 7 or 7A of the Gas Act 1986, or an agreement that gives effect to a document so maintained.'

<sup>3</sup> See condoc paragraph 4.4



Regardless of licence obligations, suppliers have a strong self-interest in achieving a smooth rollout of smart meters, and effective consumer engagement will be vital for this.

If DECC wishes suppliers to be responsible for delivery as well as funding, suppliers should have appropriate representation on the Board of the CDB and should be directly involved in its governance and in setting policy and objectives. Without this, they cannot be expected to deliver the objectives outlined in the consultation document – namely to establish the most appropriate and cost effective arrangements to benefit customers and help deliver supplier activity<sup>4</sup>. Under current proposals, not only would suppliers have no representation on the board, but in the last resort they would have no ability to remove from office Directors of the CDB. Should the CDB fail to perform, the only sanction available to suppliers would be to withhold funding, which may not be compatible with its licence condition.

#### Individual supplier roll out activities

We agree that any central organisation should be perceived as independent of energy suppliers, but ultimately it will need to align with individual supplier roll out activities and have the flexibility to address any consumer concerns as they arise.

#### Small supplier involvement:

We see no reason why a licence obligation should be restricted to large suppliers. Unlike some other regulatory obligations, small suppliers would face no diseconomy of scale in making a market-share based contribution to the cost of the CDB. Exempting small suppliers could be incompatible with:

- a) State Aid provisions under Articles 107 to 109 of the Treaty of the Functioning of the European Union (TFEU);
- b) Article 3(1) of the Electricity Directive 2009/72/EC which says that "Member States shall ensure, on the basis of their institutional organisation and with due regard to the principle of subsidiarity, that, without prejudice to paragraph 2, electricity undertakings are operated in accordance with the principles of this Directive with a view to achieving a competitive, secure and environmentally sustainable market in electricity, and shall not discriminate between those undertakings as regards either rights or obligations." and the equivalent obligation in gas.

It is to be noted that small suppliers are, for example, not required to administer small scale FITs, but are required to pay their proper share of the costs.

#### **Question 8: What are your views on the proposed objectives for the Central Delivery Body? Are there any additional objectives which should be included?**

We broadly agree with the objectives identified in the consultation and agree that these should be delivered in a way that ensures consistency of messaging maintains cost-effective delivery and avoids distorting competition.

While we are in agreement with the proposed objectives, we do recognise that they are positioned at an extremely high level, and further work within CERG will be required to generate key strategic and operational metrics.

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<sup>4</sup> Condoc para 4.25.



**Question 9: What are your views on the suggested activities for the Central Delivery Body?**

We think that, at a high level, the suggest activities outlined in the consultation are right and relevant for the CDB to undertake. However, there are some further activities which we also think merit inclusion within the Programme's scope:

- Customer Communication Programme (up to 2019) to be developed, agreed and delivered;
- establishment of costs in advance for the entire Programme;
- detailed cost control information which must be prepared and shared on a monthly basis; and
- a range of operational (weekly) metrics to provide full visibility of customer requests/complaints/concerns and issues.

We consider that these activities would be underpinned by a number of key work areas within the CDB including further consumer research (as necessary). It is recognised that a number of research activities have already been undertaken, so findings should be consolidated from all parties and passed to CDB for action. If further research is necessary, it would be most appropriate for this to be commissioned via the CDB in the interests of overall programme delivery.

- Community outreach – as already mentioned we believe certain synergies can be achieved through a collaborative outreach programme, particularly where community groups take the lead in sending smart metering messages to their own audience.
- Advertising – particularly during early stages of customer education and raising customer awareness.
- Advice Centre and website – engaging useful and interactive advice tools will be vital to the success of the Programme.
- PR – again, strong PR will be vital to the success of the Programme. In particular, proactive communications to counter negative press coverage should be ongoing (for example, to reassure on health concerns). However care would need to be taken to ensure that PR campaigns appropriately complements individual supplier initiatives
- Evaluation and Tracking – vital to ensure the venture is operating effectively. This should include customer feedback/research activities where appropriate.

**Question 10: Do you have any views on mechanisms for monitoring progress and holding suppliers to account in delivering objectives?**

As noted above (Question 7), the draft licence condition holds suppliers responsible for delivering the objectives of the CDB but gives them no powers to control it. DECC should decide whether it wishes suppliers to deliver the objectives, in which case they need to have an appropriate level of control, or whether it wishes suppliers merely to fund the body, in which case their responsibilities should extend no further than that.

Even if suppliers are to be held accountable for overall delivery of the objectives, and are given appropriate control over the CDB, it must still be recognised that the CDB will depend for its success on contributions from a wide range of third parties, including government, consumer bodies, community groups and similar. It will be helpful to set out at an early stage the level of involvement that is expected from such bodies, and secure their commitment to provide it – with explicit targets and deliverables where appropriate. Mechanisms for monitoring progress and holding suppliers to account should also address the progress made by other stakeholders against their commitments.



The monthly CERG session, already in place, would provide an effective vehicle to review performance against the overall metrics, providing structure and debate / agreement for any necessary follow-up actions.

A monthly financial statement should be prepared in order that all parties have complete visibility of all costs incurred.

As part of this, we would re-iterate the need for a pre-agreed budget across the entire period to 2019, so cost control is monitored accurately. This is particularly important to ensure that programme activities are delivered in the most cost-effective way possible and to avoid additional unnecessary costs for consumers.

Please also see our response to Question 7.

**Question 11: How can we ensure sufficient effort and funding to achieve the objectives is balanced against the need to keep costs down?**

DECC appears to envisage that the CDB would be responsible for setting its own budget, free from any limit or prescription by Government, Ofgem or other stakeholders (which presumably includes the suppliers who are providing the funding):

"It is not in our current thinking that there should be any prescription by the Government, Ofgem or other stakeholders of funding levels for this body or what its balance of activities should be. The Government would expect the CDB to take an evidence-based approach including learning from the Programme's research and trialling and commissioning its own going forwards, to ensure that it met the objectives set for it. .... While the Government would not prescribe the activities that the CDB should undertake, our expectation, reflecting the discussion earlier in this chapter, is that the sorts of activities it would need to undertake would include ..."<sup>5</sup>

We think that consumers would expect there to be some control over the costs, given the open-ended nature of the objectives and activities set out by DECC. We doubt if an approach without such controls would be consistent with the Levy Control Framework. Although DECC does not give any indication of the anticipated budget in the consultation document, it has previously suggested a budget of around £70 million.<sup>6</sup> This is a substantial amount. If DECC intends mandatory funding of this magnitude, we would expect:

- a full Impact Assessment for the regulatory intervention, including estimates of incremental benefits and costs, and an assessment of alternative options such as a voluntary approach;
- a maximum funding requirement for the period to 2019 on the face of the licence condition (or code obligation);
- appropriate governance and supervision of the annual budgets.

In addition to our response to Question 10, we would stress the need to leverage existing relationships and existing forums to keep costs as low as possible.

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<sup>5</sup> Condoc para 4.33

<sup>6</sup> 'Smart Metering Implementation Programme - Consumer Engagement Information Request', 16 December 2011



**Question 12: Do you think contracting an existing organisation or setting up a new Central Delivery Body would be a workable mechanism for delivering consumer engagement? What are the advantages and disadvantages of these two options?**

We can see the benefits of using an existing body to deliver consumer engagement. This approach has already been used in the case of Green Deal which is administered by the Energy Savings Trust. The CDB would require resources with detailed knowledge of the energy industry, customer and commercial focus (and balance between them) and the capacity to upscale, given the national coverage and overall scale of the Programme. We are not aware of any existing body that meets this brief, although we would be happy to discuss.

We can also see the advantages of the implementation of a new organisation, which could bring a fresh perspective to the programme and enable new thinking which will aid the transformation of energy markets via smart metering. Such an organisation should be solely focussed on the successful roll out of smart metering.

**Question 13: Do you think the objectives and activities of the Central Delivery Body described here will help deliver the aims of the consumer engagement strategy (see paragraphs 4.32 – 4.33)? Please explain your views. Do you have any alternative suggestions?**

We do think that it is still early in the consultation process to fully anticipate the impact that the CDB will have on the consumer engagement strategy and more clarity will be available as the detail on the Programme is developed.

With that in mind, we agree that the operation of the CDB as described would go some way to help deliver the aims of the consumer engagement strategy. The independence of, and broad range of stakeholders inputting to, the CDB would certainly help increase customer awareness and help customer understanding of smart metering benefits. It would also provide an independent place for customers to go to receive impartial advice. However, individual customer needs and wants differ greatly - some will embrace the benefits of smart metering, some will not engage at all, and we believe the majority will show relative interest for a short period of time after the installation. Therefore, we remain unconvinced that the CDB will help unlock longer-term customer behavioural change even if the vices problems can be overcome. We believe a mix of activities, acknowledged within the Consultation, will all be required to achieve sustainable behavioural change including educational customer communications, direct and indirect feedback, and independent messages from trusted sources. No matter the extent or quality of communications delivered to certain customers, no party can be held fully accountable for their level of engagement (or lack thereof).

We are aware of research which has confirmed that it would be wrong to expect customers will change their energy consumption behaviour simply with the provision of a smart meter and IHD. In summary, they advised that, by identifying customer's wasted energy, and providing an actionable plan to eliminate that waste, would give the customer the impetus to take action.

**Question 14: How can we ensure that the Expert Panel attracts a sufficient level of expertise?**

An independent panel should represent a range of critical inputs. We believe that the Expert Panel has to provide a range of expertise across a variety of areas:

- customer communications



- an understanding of technical aspects of smart metering;
- consumer behaviour;
- an appreciation of networks and future smart grids objectives;
- representation for domestic and non-domestic customers;
- an appreciation of smart metering / smart grid road map;
- data privacy / access rights;
- industry expertise;
- commercial awareness / expertise; and
- marketing.

In order to ensure that this expertise is represented on the Panel, a list of all the relevant skills and expertise should be developed by way of detailed job descriptions, agreement reached on the number of people required to successfully operate the panel, followed by a recruitment and selection process.

Just as it will be critical for recognised and respected consumer representatives to be involved in the Panel to reflect consumer interests, it is essential that suppliers are appropriately represented as they are accountable for smart metering implementation and servicing going forward.

In terms of the Board itself, we would recommend that each category of parties should have roughly equal representation, for example, 1/3 from Consumer Bodies; 1/3 from independent experts; 1/3 from energy companies. This would be the optimum mix to ensure the clear, appropriate, relevant and cost effective delivery of Programme's objectives.

**Question 15: Do you foresee any conflicts between this approach (particularly when structured in accordance with the information provided in the rest of this chapter) and competition law? If so, what are these and how might they be addressed?**

Open, transparent communication between all parties involved would be critical in establishing an effective central consumer function. Any Expert Panel incorporation would need to ensure that voting rights and responsibilities were clearly defined, so that each constituent group was fairly and robustly represented. This approach has worked well with industry codes, including the voluntary SMICOP and also through the Energy Ombudsman Governance structure. We therefore consider that, provided that these constituents are carefully developed, this would not conflict with competition law.

**Question 16: Do you have any other comments on how a governance framework could be designed to ensure the appropriate balance as described in paragraph 4.35?**

We think that the points captured in paragraph 4.35 are generally sensible considerations for a governance structure, although we note that they make assumptions about funding and delivery which we believe require further consideration.

At a more operational level, strong operational objectives and strict governance controls would be required, to be monitored on an ongoing basis. We would recommend the following governance structure:



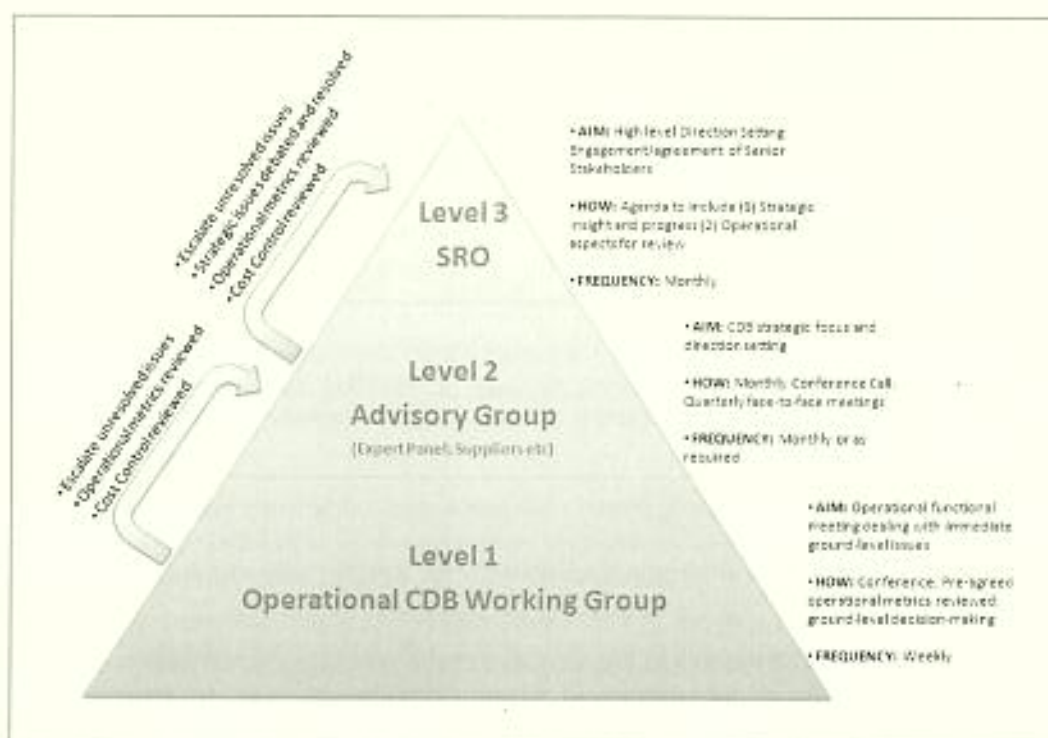


Figure 1: Proposed CDB Governance Structure

**Question 17: What role should smaller suppliers have, if any, in setting up a delivery mechanism for central engagement? What should the ongoing relationship between small suppliers and the central delivery mechanism be?**

We see no reason why the small suppliers should not be caught by the funding obligation as well as large suppliers. Small suppliers clearly have a strong interest in smart metering and it is also in their interests to ensure that consumer messaging is appropriately directed and managed. Unlike certain other regulatory obligations, small suppliers would face no diseconomy of scale in making a market-share based contribution to the cost of the CDB. Exempting small suppliers could be incompatible with State Aid rules and Article 3(1) of the Electricity Directive 2009/72/EC. (See our response to Question 7). If small suppliers contribute to the funding, they should be entitled to participate fully alongside larger suppliers, subject to resources.

Similarly, if the scheme is taken forward on a voluntary basis, it would be appropriate to allow small suppliers to participate in the scheme. We would encourage small suppliers to be involved in setting up and ongoing management of the delivery mechanism, to ensure a CDB provides the best customer service possible.

**Question 18: What role, if any, should network companies and communications service providers have in central engagement?**

We would welcome network companies and communications service providers to have a central role in a CDB.

As part of the meter installation process, network operators will be required to visit a proportion of customer's properties to rectify network issues which impede the installation of a smart meter, e.g. to replace the cut-out fuse.



Smart meters are likely to provide network related benefits to the customer such as outage notification which will mean that network operators will receive alarms should a customer's energy supply be interrupted. This new functionality will need to be explained to the customer to ensure they recognise these benefits.

As part of the electricity distribution network price control review, RIIO-ED1, there is a possibility that network operators will be incentivised to focus on customer and social issues which may have a degree of overlap with the smart metering central engagement programme.

**Question 19: Do you agree that the timings for the creation of a Central Delivery Body as set out above are achievable? Please explain your views.**

Given the issues raised in our response and the further work required to clarify roles and responsibilities and overarching objectives of the CDB, we believe the timescales are challenging.

We consider that a voluntary scheme would be better suited towards achieving the intended timescales, since, as with any Licence obligations, it is difficult for suppliers to start to take this forward without the final detail on requirements. Discussions on a voluntary scheme could be taken forward much more quickly, with a view to achieving the timescales.

For clarity, it would be useful to review delivery timescales for similar recent initiatives such as the Energy Efficiency Helpline, the Green Deal Helpline and Digital UK activity.

**Question 20: What are your views on the need for the Central Delivery Body to establish an outreach programme?**

We agree that there should be some level of community outreach as part of the communications mix, in so far as this is consistent with any legal powers used, and look forward to collaborating with relevant parties to disseminate consistent smart metering messaging.

We feel community outreach should be the primary means of contacting customers; and where possible building on the strong relationships they may already have within existing community based activities. Generic literature should be in place for community groups to send to their audience, including the CDB contact number if customers wish further help. The CDB must use existing outreach channels wherever possible in order to minimise costs and maximise effectiveness. However, further consideration should be given to the following:

- coordination with third parties;
- coordinated delivery; and
- Initiatives which target specific audiences within the community.

ScottishPower is also keen to work with communities representing vulnerable customer groups to ensure vulnerable customers are engaged via the most effective means possible. We believe that establishing an outreach programme is essential in order that all customer segments can be reached – particularly vulnerable and low income customers.

Please also see our response to Question 3.



**Question 21: Should there be requirements for suppliers to share roll-out plans with the Central Delivery Body, and for the body to take them into account?**

There would be merits in high level, aggregated, delivery plans being shared with the CDB, provided that suppliers were satisfied that these plans would be used appropriately and only to ensure that communications could be delivered more efficiently and effectively. However, it is important to note that, particularly at this stage, these plans are likely to be commercially sensitive and therefore we would be reluctant to share these without clear assurances as to how the data would be used and managed. Sharing detailed low level plans will serve little value as they are likely to change within short timescales, and are considered commercially sensitive.

In addition, we would welcome further discussion with DECC and industry stakeholders to understand the actions required to implement a Smart Town concept. This concept would provide a credible test-bed for considered, co-ordinated smart meter roll-out activities and could provide valuable, tangible learning for the CDB, as well as unique opportunities for community engagement.

**Question 22: Is there value in such a brand and if so, when should it start to be visible? Should suppliers or other stakeholders be able to use the brand on their own (non-central body) smart meter communications and if so, on what basis?**

We are in favour of developing a logo, similar to the logo used to support the Digital Switchover initiative, that would provide a common brand identity for all smart meter communications. Parties should be encouraged to use this logo on all communications and literature, to ensure consistent messaging for consumers and help establish brand awareness. As with all objectives for the CDB, it is important that the brand is developed in such a way as to allow costs to customers to be minimised.

This logo should be used to support mass roll-out activities and therefore would need to be in place by the end of 2013.

A set of logo/brand guidelines will be required to control the use of the logo across all the parties who are allowed to use it.

**Question 23: Do you agree that the licence conditions as drafted in Part A effectively underpin the policy intention to require energy suppliers to form a Central Delivery Body? Please explain your views.**

As explained in response to Question 7, we are not convinced that imposing a licence obligation on large suppliers is the best approach to achieving DECC's objectives, and if DECC does proceed with this option, we have serious concerns about the detailed approach being proposed.

As regards Part A, our main points are that:

- The obligation should be imposed on all suppliers, not just 'Relevant Suppliers': unlike some other regulatory obligations, small suppliers would face no diseconomy of scale in making a market-share based contribution to the cost of the CDB, and exempting small suppliers could be incompatible with State Aid rules and Article 3(1) of the Electricity Directive 2009/72/EC.
- Unless suppliers are given appropriate control over the governance and operation of the CDB, their duties should be restricted to establishing and funding the CDB, and not to its performance.



**Question 24: Do the licence conditions as drafted give the Central Delivery Body sufficient separation from suppliers to achieve the policy objectives as set out above? Do you have any specific comments on the Constitution, Members and Directors, and Independence sections of the licence conditions?**

As explained in response to Question 7, we believe that far too much emphasis has been placed on the 'independence' of the CDB. We agree that the CDB should be perceived to be independent of suppliers to maximise the impact of its message. It should also be impartial as respects any individual supplier. However if the overall policy objectives are to be met, it is vital that supplier's interests are represented in the CDB, particularly to ensure that activities are delivered in a cost effective way which gives appropriate recognition of the wider roll out activity.

On that basis, we do not agree that Part B of the licence conditions as drafted achieve the policy objectives intended. Specifically, if energy suppliers are to be held responsible for the performance of the CDB, they must have representation on the Board, with appropriate voting rights and input into Governance of the CDB.

With regard to the constitution of the CDB, it will be important that a set proportion of Members be independent of relevant suppliers, but not all members, as currently drafted. Further, there must be a robust and transparent process for nominating and appointing all Members and Directors on a forward basis, which allows appropriate consideration of all relevant stakeholder views. We still think that this would allow the CDB to be achieve independence, but with appropriate checks and balances on all stakeholder input. We agree the CDB must operate in an impartial, professional manner to provide full support to the Programme, but suppliers are a critical stakeholder group and cannot be excluded from the CDB operation and governance.

**Question 25: Do you agree with the way the objectives are drafted in the licence conditions? Should they be more or less detailed?**

As noted in response to Question 7, we believe further consideration needs to be given to DECC's legal *vires*. In particular, it is not obvious to us that the objectives set out in Part C paragraph 15 (a) and (b) are compatible with the restriction in s88(2) of the Energy Act 2008. The attempt to square this circle in the chapeau to paragraph Q.15 of the draft licence condition seems to us to be rather artificial and does not (and could not) empower the CDB to undertake energy efficiency advice or motivational campaigns unless they were closely linked to the operation of the smart meter.

Apart from this *vires* point, we think the objectives broadly strike the right balance between providing strategic guidance to the CDB while still allowing for flexible interpretation of the best way to achieve these. As mentioned previously, suppliers should not be held accountable for the achievement of objectives over which they have no control.

On this basis, we therefore believe that further consideration should be given to the following:

- confirmation of the full programme budget, up to 2019 ahead of CDB start-up;
- the agreement of clear, comprehensive roles and responsibilities across all parties involved (including CDB and Expert Panel);
- the agreement of the overall scope, and deliverables, prior to CDB commencement;
- determination of a flexible funding model which takes into account stakeholders potentially joining and leaving the CDB.



**Question 26: Do you agree that the licence conditions as drafted underpin the policy intention with regard to the expert panel? In particular, do they correctly identify the types of expertise required, and give sufficient clarity and detail on the purpose, role, independence, membership and operation of the Expert Panel? Do you agree that the Secretary of State should approve the process for appointing the Panel?**

In principle, we agree with the need for an Expert Panel. However, its scope, power and overall responsibilities must be determined ahead of the CDB becoming operational.

Given that the Licence Condition as drafted does not give suppliers any input into or control over the operation of the CDB, we do not see how the obligation on the CDB to develop the Expert Panel can be included within a Licence Condition on suppliers. Therefore we do not consider that Part D of the Licence is relevant, nor do we understand how this could be enforced on suppliers.

Broadly speaking, as an illustration of the scope and objectives of an Expert Panel, rather than a Licence Condition, we think that the content of part D is sensible. There should be clearer control of its budget than that specified in paragraph Q26 of the draft condition.

**Question 27: Do the licence conditions effectively underpin the policy intention of the functions of the CDB? Are there any additional functions that you think should be included in the legal drafting? Please explain your views.**

The current Licence drafting does not envisage that suppliers would have any input into, or control over, the Central Delivery Body, since Part B of the Licence Condition as drafted prescribes that all members of the CDB must be independent of suppliers. Therefore, while suppliers may be able to procure a service with the capability to carry out such functions, it is not relevant for the functions of the CDB to be specifically prescribed as a supplier obligation. Specifically, under the Licence Condition model, suppliers would be held accountable for functions over which they would have no control.

However, as an illustration of the policy intent around the functions of the CDB, rather than a Licence Condition, we think that the content of Part E is broadly appropriate. We believe the overall budget for the CDB for the period to 2019 should be established in advance, with each annual budget being required to fit within this envelope. A cap on the required funding should be written on the face of the licence condition.

**Question 28: Do you agree with the form and content of the Engagement Agreement as drafted in the Licence Conditions? Please explain your views.**

Again, as the current Licence drafting clearly separates suppliers from the Members of the CDB, it is not appropriate or practicable to hold suppliers responsible for the content of the Engagement Agreement, if the CDB is responsible for this. In drafting terms then we do not agree with the form and content of Part E of the Condition.

In principle, ScottishPower is in agreement with the content of the Engagement Agreement proposal, as an illustration of how this is expected to operate in practice. We consider that the Engagement Agreement should be open to all interested parties, including network operators, and not just be limited to the agreement with relevant suppliers.



**Question 29: Do you agree that the licence conditions as drafted effectively underpin the other duties of suppliers in relation to the Central Delivery Body? Are there any other duties that should be included? Please explain your views.**

Yes, we are broadly comfortable with the part of the draft Licence Condition setting out the duties of suppliers in relation to the Central Delivery Body.

We think that, if the Licence Condition proceeds as drafted and suppliers have no direct role within the CDB, then there would need to be some controls within the requirement to enter into the Engagement Agreement, in order to ensure that suppliers are not forced to contract on a basis that may not be fair or appropriate in all the circumstances. In addition, if the Engagement Agreement is to be a legally binding contractual arrangement, then there is no need for the Licence Condition to specify that the supplier must also comply with the Agreement.

**Question 30: Do you have any other comments on the licence conditions which have not been covered by the previous questions? Are there any unintended consequences we can anticipate?**

As we have outlined within our responses to questions 26 to 28 above, we have concerns that the licence condition seeks to place some obligations on suppliers with which they would be unable to comply, given the membership of the CBD as proposed within Part C. We think that, if Licence Conditions are deemed to be necessary then these can be made more effective by ensuring that only relevant obligations, for which suppliers can be genuinely responsible within the model, are included. (See our response to Question 7).

However, we consider that there is scope to establish a workable and effective programme model without the need for additional regulation. In order to ensure that the Programme is delivered as cost-effectively as possible, as envisaged in the policy objectives, we think careful consideration needs to be given to the overall budget for the Programme and the level of costs that may be incurred through the proposed model. We think that this model may prove more costly to establish and manage, and we think that consideration should be given to a range of governance models in order to strike the appropriate balance between control of messaging and management of costs.

**Question 31: Do you think there are any consequential changes to existing licence conditions or codes which are needed in order to make the proposed obligations work as intended? Please explain your views.**

No, we do not consider that there are any consequential changes needed to existing licence conditions or codes based on the current draft conditions.

**Question 32: What are your views on the state of the energy services market for non-domestic consumers and its future development?**

ScottishPower provides a range of energy services products to non-domestic customers, but we acknowledge more can be done to help this important customer group industry-wide. We are currently developing various new energy services products, and we will look to support non-domestic customers in any developments we take to market. However, on the whole we have found it fairly difficult to engage this customer segment in energy efficiency dialogue. This is due to a variety of reasons, ranging from limited saving potential through to non-domestic customers having other priorities in their busy schedules. Therefore, we would propose the communication campaign highlighted earlier in this response considers



how non-domestic customers are engaged, particularly those which could potentially receive services from the DCC.

**Question 33: Do you agree that information on current smart and advanced metering would be useful to non-domestic customers in the short term? Is there other information that could usefully be provided at the same time?**

For some non-domestic customers, current smart and advanced metering information may be useful, and we would welcome any of our non-domestic customers engaging in conversation with us. However, like the domestic customer base, this very much depends on the interest of the decision-maker and their interest in engaging in behaviour change.

**Question 34: Should the central delivery arrangements proposed in Chapter 4 extend to micro-businesses? What are your views on any centralised activities focussing on micro-businesses alone?**

Yes, ScottishPower agrees that the CDB should support micro-business customers, particularly through engagement communications. Some communications generated for the domestic customer may also be appropriate for micro-businesses. For tailored, more detailed conversations about specific micro-business needs, we would propose the CDB direct the customer to their energy supplier.

**Question 35: What changes might be required to the licence conditions at Appendix 2 to address the needs of the non-domestic sector?**

We do not think that significant drafting changes would be required to the Licence Conditions to encompass the needs of non-domestic customers. However, at an operational level, the CDB will need to consider the different issues of relevance to non-domestic customers and account for these accordingly. As above, for more detailed conversations about specific micro-business needs, we would propose the CDB directs the customer to their energy supplier.

**Question 36: What are your views on whether the Government should, in due course, alter energy efficiency incentives in the light of new opportunities arising from smart metering? How might any such incentives operate?**

In principle, ScottishPower is in support of Government reviewing energy efficiency incentives depending on any new opportunities that transpire from smart meter roll-out. We would welcome further industry discussions with Government as we proceed through smart meter roll-out. However, any data requirements should be considered as part of the Programme's overall reporting requirements.

Any new Government initiatives should not impact on mass roll out timescales or introduce further complexity which requires the objectives and scope of the CDB to be altered.