



**Consumer  
Focus**

Campaigning for a fair deal

17th May 2012

Smart Metering Implementation Programme – Regulatory Design Team  
Department of Energy & Climate Change  
3 Whitehall Place  
London SW1A 2AW

Dear Consultation Officer

Consultation on the Draft DCC Licence and Licence Application Regulations,  
Questions 14-18

We are grateful for the opportunity to respond to this consultation. A more general and holistic commentary will be included with the full response, but as questions 14-18 were due to be returned earlier, we have answered them below.

This response is non-confidential and may be displayed on your website. If you have any questions regarding its content please contact me on

Yours faithfully,

Consumer Focus  
Fleetbank House  
Salisbury Square  
London EC4Y 8JX

e [contact@consumerfocus.org.uk](mailto:contact@consumerfocus.org.uk)  
[www.consumerfocus.org.uk](http://www.consumerfocus.org.uk)

14. Do you have any comments on Chapter 10 of the licence conditions; in particular do you have any comments on :

i) The proposed arrangements applying to Management Orders, including the scope of the powers of the Authority in such circumstances;

No

ii) The arrangements proposed in relation to the Business Handover Plan and the process for resolution of matters between the outgoing and incoming DCC;

No

iii) The scope of matters that the Business Handover Plan should provide for;

No

iv) The scope of the matters that may need to survive for a period of time to continue to ensure a smooth handover to the DCC's successor and whether the two year timeframe is appropriate;

No

v) The proposed approach to Intellectual Property Rights?

No

15. For the initial licence application, do you agree with the Government's intention to apply the BAFO stage in all circumstances, so as to mitigate the risks associated with the changing requirements and improve the competitive outcomes?

Yes

16. Do you agree with the proposal not now to include a fast-track process to appoint a temporary DCC, but instead to rely upon the provisions for intervention to keep the DCC's service functioning whilst a standard licensing application process is conducted to appoint an enduring successor DCC?

We have a number of concerns relating to this approach, although we understand the difficulties associated with a fast-track process to appoint a temporary DCC.

We are seeking reassurance that a DCC which is having its licence revoked, particularly if this is due to underperformance, is financially incentivised to provide the highest standard of service possible while it continues under an intervention regime. Otherwise we would be concerned that, knowing that its licence is being revoked, it could have 'nothing to lose' through further underperformance, and that therefore many resources may have to go into ensuring the services are maintained.

Separately, in the context of the Government's current position we are unsure of the significance of the various notice periods attached to different sorts of revocation events, discussed in Part 2 of the Draft Licence. If an incumbent DCC is to continue to provide services, albeit under an intervention, in the case of its licence being revoked, it is not clear

what difference it makes whether the notice of revocation is 24 hours, seven days, or 30 days. Would the incumbent DCC continue in fact to hold the licence so that it can continue to provide services with intervention until a new one has been procured?

We would also suggest that whether or not the best course of action is to engage in a fast-track process may vary according to circumstance. We are aware that a fast-track process may make it more difficult to assess suitable candidates robustly, and that the short term of the contract could reduce competitive pressure. However, if the incumbent DCC is failing so badly as to require its licence to be revoked, it is possible that fast track procurement could still deliver a better intermediate service for the 18-month period while a full procurement process is run. In addition, we would wonder whether conducting a fast-track procurement process could be less costly than implementing interventions to keep the incumbent DCC running while the full-scale procurement takes place.

17. Do you have any comments on the proposed competitive application process for the DCC licence and, in particular, on the Government's stated intention to operate an extensive 'best and final offer' stage for the first licence competition?

No

18. Do you have any comments on the draft DCC licence application regulations and, in particular, whether they effectively implement the proposed competitive application process described in this consultation document?

No, apart from the comments above.