



**Consumer
Focus**
Campaigning for a fair deal

Consumer Focus Response to DECC:

Smart Metering Implementation Programme

Smart Energy Code

31st May 2012

About Consumer Focus

Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland.

We operate across the whole of the economy, persuading businesses, public services and policy-makers to put consumers at the heart of what they do.

Consumer Focus tackles the issues that matter to consumers, and aims to give people a stronger voice. We don't just draw attention to problems – we work with consumers and with a range of organisations to champion creative solutions that make a difference to consumers' lives.

Our Response

This response is non-confidential and can be displayed on your website.

We are grateful for the opportunity to respond to this consultation. We have a number of specific concerns, including the lack of sufficient checks within the accession or user entry processes that parties are fit and proper to access services. We believe that the proposed governance framework needs adjusting to ensure that incumbent players in the energy market are not favoured and the consumer voice is properly heard. We are also seriously concerned by the decision not to apply a future obligation to enrol meters with the DCC retrospectively. This is because it may cause consumers with SMETS1 and non compliant meters to be excluded from the benefits of having their meters enrolled in the DCC, such as easier and faster switching, and services from third parties. It could also have a negative impact on competition more widely, especially if the net effect is that customers have to go via their supplier for energy consumption information they need to switch or access energy efficiency services. Given that the DECC Impact Assessment estimates that 2 million SMETS 1 meters will be rolled out there is the potential for significant detriment. As discussed in our response to the DCC consultation, we are also still unsure whether the current drafting of the SEC objectives will sufficiently protect consumers' interests, or facilitate consumer-related modifications to the SEC.

Answers to specific questions

1. Please provide any comments that you have on the classification of party categories under the SEC.

No comments.

2. Are the requirements of both meter asset providers and meter operators for access to smart metering systems adequately captured in this consultation paper? If not, please provide additional details of the requirements and why they are required.

No comments

3. Do you support the Government's preferred solution to implement a simple variant of Option B whereby the registration of a meter operator in the existing electricity and gas registration systems would be deemed to constitute a nomination by the supplier of that meter operator to act as its agent to perform a specific set of commands?

No comments

4. Should meter operators be given limited participation rights in SEC governance under Options B or C, and if so what rights would be appropriate?

No comment

5. Would you support the tracking of assets being included within the future system requirements for the new registration systems, which are proposed to be provided by the DCC?

Yes

6. Do you agree with the process proposed for accession and the accession time limit?

Yes

7. Do you agree that once acceded, any SEC Party should be able to participate in the governance of the SEC prior to undertaking any further entry processes?

Yes

8. Do you have any views on the company, legal and financial information that should be provided as part of the SEC accession process?

We would suggest that in addition to evidence that a company is a going concern (with appropriate exceptions for start-ups), some provision of evidence as to why the company requires accession to the DCC should be required. Also, please see answer to Q11.

9. Do you agree that Government should not mandate a specific solution for the DCC User Gateway and that Data Service Provider (DSP) bidders should be invited to propose the solution which they consider to be the most effective (such proposals could include the option of extending an existing industry network)?

We have no strong views on this.

10. Do you have any other comments on the Government's proposals for the DCC User Gateway?

No

11. Do you agree with the proposed DCC user entry processes?

In addition to the proposed process, we would wish that either the SEC accession process or the user entry process included a test of whether a company is a 'fit and proper' person and can be trusted with a large amount of personal data. A test of whether the company has the necessary systems to communicate and maintain security does not necessarily test whether it will be trustworthy. Clearly it is impossible to predict whether an organisation will continue to be trustworthy in the future, but we would advocate a requirement of proof at entry that a potential user has not breached the Data Protection Act or similar legislation in the UK or abroad for a certain number of years.

12. Do you agree with the proposed rights and obligations relating to smart metering system enrolment set out in this chapter? Please provide your views.

Yes

13. Do you agree that the SEC should require, as a condition of enrolment, that the supplier grants the right to the DCC to access its smart metering system for specified purposes?

Yes

14. Do you agree with the proposed rights and obligations relating to smart metering system withdrawal and replacement of devices?

We are concerned that the provisions for a supplier to elect to withdraw a smart meter from the DCC do not include the case in which a homeowner requests to opt out of smart metering and for their meter to be operated as a 'dumb meter' while they are living in a property.

15. Do you agree with the three different types of eligibility to receive core communication services that have been proposed?

Yes, we do.

However, we are concerned by clause 167, in which it is stated that a supplier may wish to access type C communication services for meters for which it is not registered, for marketing purposes. We would seek assurance that no supplier should be able to access energy use data – of any granularity, not only the greater degree of granularity for which a consumer must 'opt in' for their own supplier to receive – for another supplier's customer for marketing purposes, without that customer's express permission. However, we may also have concerns regarding the means by which other suppliers would gain this permission to access data, and the specific marketing tactics that would be used to gain it. We suggest this needs further thought and discussion.

16. Are you aware of situations where there are two or more importing suppliers in relation to a single smart metering system and if so, where do such situations exist, how many exist and what metering arrangements have been made?

No

17. Do you agree that amendments to the set of core communication services should be subject to the standard SEC modification process?

Yes; we can see no reason why they should not be.

18. Do you agree that SEC Parties should be able to request elective communication services from DCC on either a bilateral or multilateral basis?

Please see answer to question 21.

19. Do you agree that the following SEC requirements associated with the provision of core communication services should also apply to elective service provision: DCC user entry processes, technical security requirements, data privacy requirements, financial security requirements and dispute arrangements.

Yes, definitely.

20. Do you agree that the SEC should set out mandatory procedures for the provision of an offer of terms for elective communication services by the DCC and with the mandatory procedures proposed? Do you consider that any additional procedures should apply? What do you consider are the appropriate timescales within which an offer of terms should remain open?

No comment.

21. Do you agree that commercially sensitive terms and conditions associated with elective service provision, which might include the type of communication service that is being provided, performance standards associated with the provision of that service and the price associated with that service, should be confidential between the DCC and the party or parties receiving the service unless the party or parties receiving the service consent or unless requested by the Authority pursuant to the DCC Licence?

We are undecided on this point, and on the related answer to question 18 above. We can see that non-transparent, bilateral agreements in which sensitive information is confidential would encourage innovation, whereas a requirement to disclose could destroy any 'first mover' advantage, and stifle innovation in services which could benefit consumers.

However, we would be concerned that non-transparent, bilateral agreements could have unintended consequences. Provision of elective services could potentially have negative effects on the DCC's ability to provide core services to the required standard, or could compromise security or consumer privacy. We understand that the current thinking is that elective services should not be allowed to have these negative effects and that potentially, allowing them to do so could constitute a breach of the SEC. However, we think it is a possibility that any effects of elective services on core services, or security etc., may be difficult to detect, particularly in advance. These effects may not be visible to the DCC, or to the party requesting the service. However it is possible that if other parties were also consulted, these issues might be picked up and could be prevented. Contracts which were – in part – transparent would also reduce potential for the DCC to be lobbied by parties wishing to receive services which could negatively affect other services provided by the DCC.

22. Do you agree that the SEC should contain provisions requiring that the DCC notifies SEC Parties of the timing of the implementation of changes to its systems?

Yes.

23. Do you agree that the DCC should only be required to offer terms for elective communication services from a specified date, and if so, what do you consider that date should be?

Yes; we have no comments as to what the date should be.

Further comment on Core and Elective Communication services questions

We are concerned by the stipulation that once an offer of an elective service has been accepted, any additional core services must not impinge on the DCC's ability to honour prior contracts. This is because it seems unfair that an elective service that only some consumers can benefit from should take precedence over any potential new core services that everyone could benefit from, particularly in the context of a domestic market in which so many customers are 'sticky'. We would therefore suggest that, in order to ensure that the DCC does not have to breach any elective contracts to provide new core services, all elective services are provided on fixed-term contracts (of, say, one or two years). The default would be the renewal of these contracts, but their break points offer the opportunity to cease or alter the service in order to enable provision of a new core service.

24. Do you think that the proposed approach for DCC charging is reasonable?

Yes given the framework selected.

25. Do you consider that the "pay now dispute later" approach is consistent with the envisaged DCC regime? If you disagree please set out the reasons for your preferred approach.

Yes, this seems sensible. This is the approach taken on other existing codes such as the Balancing and Settlement Code. The alternative, "dispute now, pay later", would necessitate the DCC borrowing to cover funding shortfalls and/or increasing contributions from other users in order to meet the funding gap. This could create additional costs that are passed on to consumers, and also result in cross-subsidies between those who pay on time and those who dispute. There is also a risk that an open ended ability for DCC users to defer liabilities by raising disputes could be gamed – e.g. used as a tool to escape their own cashflow problems by pushing them onto the DCC.

Clearly there may be some legitimate disputes, and, on occasion, the materiality of these to the DCC users may be significant. It would therefore be appropriate for the SEC disputes procedure to be allow for expeditious treatment of high materiality disputes.

26. Do you accept that bad debt should be socialised explicitly within the current charging period across all DCC service users? If you disagree please set out the reasons for your preferred approach.

Allocating socialised bad debt based on historic contribution to DCC charges – which appears to be your preferred option (paragraph 251) – appears to be a sensible idea. We think two aspects of the scheme design may need further consideration though.

The first is working out which users to socialise the bad debt over. The consultation document implies that if, say, 75% of DCC costs were ordinarily borne by suppliers, 20% by network users and 5% by other types of signatory that any bad debts would

be split in the same proportions. This seems fair if all categories of participation are equally at risk of default, but brings a risk of cross-subsidy if some types of user are more likely to default on their payments than others. We suspect that networks are less likely to default on payments than other types of signatory because the regulated nature of their revenues means they effectively cannot go bust in the way other participants can.

The second issue is the timescale for the notification, and settlement, of socialised bad debts. Unfortunately, existing codes can allow parties to build up bad debts over an extended period. There are examples of BSC Parties remaining in payment default for protracted periods. There have also been problems where corrections to gas settlement data errors that existed for several years have been recouped from Uniform Network Code (UNC) parties in a single month (e.g. in relation to the Farningham meter offtake incident). If the SEC allows for socialisation of large debts in a single bill with little notice period, this is likely to create risk costs to suppliers that they will price through to consumers. So we would welcome consideration of how the SEC can best avoid 'bill shocks' resulting from bad debts. This may include some facility to spread debt repayments over a number of months and developing processes that give users the maximum amount of possible visibility that a debt call may be impending so that they can prepare for this.

27. Do you agree with the proposed functions, powers and objectives of the SEC Panel, as set out in Boxes 12A and 12B?

Yes

28. Do you think that a fully independent panel is the appropriate model for the SEC? Please give reasons for your answer.

We are undecided on this point. In theory an independent panel could be very effective and would be likely to give the best outcome for consumers. However, we are aware of the risk that a panel which is nominally independent may not be entirely so, and that members may represent their own constituencies or companies rather than giving a balanced view. We heard in a recent SMRG Working Group 2 meeting that in some cases representatives might fear for their job security if they were not to present their constituencies' interests, regardless of the official model of the panel. Indeed, the level of expertise necessary to be a useful member of the panel dictates that members will most likely have to be drawn from interested parties, so even if those members endeavour to provide non-partisan contributions they are likely to present a biased view in any case. Therefore if an independent panel model is chosen, we would suggest that decisions and recommendations of the panel be seen in a context which reflects the fact that not all members will always act truly independently.

29. Do you agree that the proposed SEC Panel composition set out in Box 12C is appropriate? Please give reasons for your answer, alternative proposals for the panel composition are welcome.

We feel that the proposed composition is somewhat inconsistent with the Government's minded-to position that SEC Panel members should be obliged to act independently, if Government believes that these members really will do so. If panel members really will act independently, it is not clear why it matters how many

large supplier places there are on the panel vs. how many smaller suppliers, or indeed consumer representatives, so long as there is a wide and varied spread of expertise.

If however there is an identified risk that panel members may not always act independently, as we believe there is, and are likely to represent those who have appointed them, then a carefully composed panel is important. We would suggest that the panel needs a better balance of large and small supplier representatives. With four large supplier seats and one small supplier seat on the Panel, two-thirds of the Big 6 would be able to achieve representation but only a tiny fraction of the competitive fringe would be represented. Given that one of the code objectives is to promote competition, adopting a Panel structure that favours the large incumbents would appear perverse. We would therefore recommend that two big six supplier representatives is sufficient – one for gas, one for electricity, and that a larger number of small supplier seats is provided. We would also strongly recommend that one of the 'other users' places is taken by an Energy Services Company, in order that the SEC can facilitate the greatest consumer benefit from ESCO services.

30. Do you agree with the proposed division of voting and non-voting members, and in particular do you believe that the DCC should be a non-voting member in respect of any or all aspects of panel business?

Yes, and yes.

31. Do you agree that the proposals for the independence, appointment and term of office of the panel chair are appropriate? Please give reasons for your answer.

Yes

32. Do you agree with the proposed arrangements for panel member elections and appointments?

These seem fine.

33. Do you agree with the proposed rules in respect of proceedings and decision making at SEC Panel meetings?

Yes

34. Which of the two options for remuneration of panel members do you prefer, and why? In particular which of these options do you believe would be most aligned with each of the options for the panel to be either an independent or a representative body as a whole?

If the panel were to be independent, and members therefore were doing the DCC user community a service by participating, without them or their employees materially gaining from participation, then Option 2 would be more appropriate, and could also encourage members to act with greater independence. We are not sure that that any statutory bodies (for instance Consumer Focus or any successor, if it

is government or bill-payer funded) should be remunerated for attendance, since consumers will effectively already have paid for their attendance on the panel through income tax, and through their energy bills. However, we would strongly advocate that funding be available for attendance of a second, expert consumer representative, as this has been extremely helpful on other groups such as the Consumer Advisory Group (CAG).

If the panel is *not* to be independent, then it is not clear that panel members should be remunerated, except in cases where members would be unlikely to attend meetings unless there were some payment (for instance in the case of small suppliers or ESCOs which may have insufficient resources to send a participant to meetings otherwise, or extra consumer reps). This is because panel members will be doing a service to those who appointed them at least as much as to DCC users, so it would not be appropriate for DCC users to pay for their attendance. In the case of panel members which would not have the resources to attend except if they are remunerated, we would suggest that a decision be made by the Chair, or by the Authority, as to whether the member should indeed be remunerated to ensure attendance, based on the wider value that the member would bring to the panel. For instance, the representation of the views of smaller suppliers may help the SEC to facilitate better competition in the market, which is generally seen to be a good for consumers; similarly, the presence of Energy Service Companies could help the SEC to facilitate provision of more innovative energy services to consumers.

35. Do you think the Code Administrator and Secretariat chosen by the SEC Panel should be contracted through the DCC or through a SECCo?

No comment

36. If a SECCo was established what should its funding arrangements, legal structure, ownership and constitutional arrangements be?

No comment.

37. Do you have any views on the proposals regarding which parties should be entitled to raise SEC modification proposals?

No

38. Do you have any comments on the proposed standard progression paths for different categories of modification?

No

39. Do you have any comments on proposed criteria that the panel would apply to judge whether a proposal is non-material and so to determine which path should be followed?

No

40. Do you think it is for the panel or for the Authority to decide whether a modification proposal should be considered urgent and determine its timetable?

The panel in the first instance although, recognising that there is a risk that any panel may develop voting blocs based on commercial interests, there may be some

value in having a process that would allow SEC Parties to appeal this decision to the Authority in order to protect the interests of minorities/fringe participants.

41. Do you have any views on whether any non-standard modification rules and procedures should apply to any particular parts of the SEC?

No

42. Do you agree with the proposal that responsibility for making final decisions or recommendations on SEC modification proposals should always rest with the SEC Panel and that this power should not be capable of delegation?

Yes

43. Are there any further matters relating to the modification process which you would like to comment on?

As discussed in our response to the draft DCC Licence consultation, we are unclear as to the legal status of the statement at the end of the SEC objectives which states that the SEC achieves its objectives if it balances them in the round and with due regard to consumers' interests. This status will have an effect on the modification process, in particular what constitutes 'the better achievement of the Relevant SEC Objectives' and any comments that we would seek to make on it.

44. Do you agree that the SEC should place certain obligations on the SEC Panel and, possibly, SEC Parties with regard to the production, provision and publication of certain information and reports? If so, what do you believe these should be?

Yes, the Panel should play a key role in ensuring that the SEC and DCC arrangements deliver robust, quality, value for money services and in representing the interests of the stakeholders in the arrangements. Reporting should have a strong consumer focus. For example, we would expect to see appropriate reporting around the availability of services e.g. distribution broken down by region, rurality, dwelling type etc. The quality of service delivered e.g. speed of top ups to prepayment meters, reliability of communications required to get accurate billing. Also, reporting, as appropriate on the progress or contribution that has been made to deliver the benefits expected of smart metering e.g. faster switching, ending misdirected payments etc.

It would be appropriate for the Panel to oversee the monitoring and reporting of the DCC's performance against its KPIs. This should include periodic public reporting of such performance, and the means for it to hold the DCC to account for any underperformance. This could perhaps take the form of an ability to require the DCC to present remediation plans in the event of its underperformance and to monitor and report on its progress against these plans. We would expect this information to also feed into Government's annual report on smart metering that assesses the costs and benefits to consumers and Britain PLC.

45. Are there any particular areas of risk that you believe should be addressed by appropriate compliance/assurance techniques under the SEC? Not which have not been previously mentioned in the consultation document.

46. Do you have any views on the most appropriate governance arrangements for any compliance/assurance framework under the SEC?
No

47. Do you have views on the options for the creation and enforcement of liabilities between the DCC and service users described in this chapter?
No.

48. Do you agree that there should be a cap on liability for specific types of breach between the DCC and service users (including security breaches and physical damage). If so, what do you believe the appropriate level of these caps to be?

We do agree that there should be a cap but we do not have comments on the appropriate level of this cap.

49. Are there any other specific types of liability between the DCC and service users that should be addressed in the SEC? If so, how should these be treated?

We are not aware of any.

50. Do you have views on the options for the creation and enforcement of obligations and liabilities between SEC Parties (excluding the DCC) described in this chapter?

No

51. In your view, do any of the potential matters between parties described in this chapter (or any other such matters that you are aware of) merit the inclusion of obligations or liabilities that are directly enforceable between parties under the SEC?

No

52. Do you agree that it would generally be preferable to enforce party obligations "centrally", for example through an appropriate compliance or assurance framework under the SEC?

Yes, this would seem most efficient. The application of a common central framework should help to ensure that there is no undue discrimination between DCC users. It should also help to diagnose which issues are systemic and which are user-specific, which should allow for the development of proportionate tools to tackle compliance problems.

53. Are there any scenarios where you believe that it would be appropriate to allow for cost recovery between parties under the SEC? If so, what form should these arrangements take?

No

54. What types of dispute do you believe might arise under the SEC?

Disputes could arise over a number of issues; some examples are:

- Whether one party's elective services are negatively affecting another's core, or elective services
- Whether all suppliers are providing consumers with the correct – and the same – information regarding switching suppliers and how this works with a smart meter
- Whose responsibility it is to take a call from the customer and instruct DCC to deal with any issues if a switching process goes awry.
- Charges being incorrectly applied by the DCC
- A failure by the DCC (or its agents) to comply with the SEC

55. Do you agree with the proposed framework for resolving various different categories of dispute, as outlined in this chapter?

Yes

56. Do you have any views on the suggested framework for dealing with defaults under the SEC, including the events, consequences and procedures described? In particular, do you agree with the proposed role for the SEC Panel and have any view on what SEC rights or services it would be appropriate to suspend in the event of a default?

We would appreciate further clarification on the definition of a breach which is 'capable of remedy' vs. one which is not. For instance, if a breach consisted of confidential information being shared inappropriately, would a remedy consist in a) ensuring that this could not happen again, b) retrieving all of the information which had been shared, or c) retrieving the information and ensuring that no party which should not have had access to it originally, retains any access to it or information gained from such access (which would be very difficult to effect)? Is 'remedy' effecting a return to a situation exactly as it was before the breach occurred, or does it consist in mitigation of any damage which has occurred?

We are aware that, since for some SEC parties, ascension will be a licence condition, it will be much easier to expel a SEC party which is not licensed, than one which is, particularly if a licensed party has many customers. We would seek assurances that licensed parties are not in effect able to breach the SEC to a greater degree without serious consequences than non-licensed parties.

We agree with the proposed role for the SEC panel. We are finding it a challenge to identify rights and services which could be suspended – with real penal effect on the SEC party concerned – without penalising consumers

Further comments on Chapter 19

We are concerned that the only criteria for identifying the three events of default is that they represent situations where, left unchecked, they would have serious financial or operational implications for other SEC Parties. We believe that a situation which, left unchecked, would have serious negative implications for consumers, should constitute a default as well. It is not clear that all situations which would have serious negative implications for consumers would also have serious financial or operational implications for SEC parties. We would, therefore, seek assurance that the first default event, 'Material breach of code provisions'

would include actions which would have negative effects on consumers but not major financial or operational implications for SEC parties.

57. Do you agree with the proposed rules and procedures governing withdrawal and expulsion from the SEC described in this chapter?

Yes

58. In addition to the proposals above relating to the suggested intellectual property provisions to be included in the SEC, are there any other intellectual property provisions which should be considered for inclusion within the SEC?

No, so long as the general obligations upon exit from the SEC include the non-disclosure of any material which is deemed to be the intellectual property of SEC parties, or of a particular SEC party disclosable only to other SEC parties.

59. What information should be classified as confidential under the SEC?

It is important that there is transparency to ensure that the DCC delivers effective, value for money services which ultimately provide benefits to consumers and those parties concerned. Where it is proposed that information is confidential, we would ask DECC to in each instance question if there is a legitimate consumer interest or GB PLC interest from having access to that information. It is important that 'commercial confidentiality' does not act as a barrier to achieving appropriate transparency and accountability.

However we assume that as per data protection legislation, individual consumer data, including energy consumption data supplied by or offered services by SEC parties would be confidential. Similarly we would expect this to apply to commercial information about business consumers supplied by or offered other services by SEC parties.

60. How should a balance be struck between transparency and data publication under the SEC, whilst maintaining confidentiality?

As discussed above, consideration should be given as to whether there is a consumer interest, or wider Britain PLC interest in making that information available. As noted, we assume that personal data, including any energy data or other information that can be traced back or used to identify individual customers is always confidential. There should be a strong consumer focus on reporting. KPIs should reflect the customer experience and provide information needed for DECC's annual report on the costs and benefits and progress of smart metering.

In practice, there will also need to be some flexibility. It is likely to be very difficult to be extremely prescriptive on what information should be published in advance of SEC go-live, as ongoing experience will inform perspectives of what information is actually useful. We would therefore suggest that the SEC Panel is given an overarching power to publish such information as it considers reasonable to better facilitate the code objectives, with an expectation that it would develop and implement a transparent process for delivering this.

61. Please detail those events which you believe would warrant the force majeure provisions being exercised and indicate who should declare a force majeure event.

We are unsure whether industrial action, terrorism, and material vandalism should be defined as force majeure in all cases, since in some instances they these can be foreseen, and guarded against, so they are not 'clearly outside the control of the DCC and/or other SEC parties'.

Industrial action taken by staff at one of the SEC parties can be foreseen, and mitigating action could and should be taken. Therefore it should not be counted as force majeure on the part of the SEC party whose staff are taking the action. Terrorism which involves causing havoc by hacking into data systems cannot be foreseen but it is not outside the control of SEC parties since action can be taken to prevent it. Security breaches caused by terrorists should be treated in the same way as breaches caused by other agents, rather than being differently as force majeure. Similarly, any other acts by terrorists which, if carried out by non-terrorist criminals would not be defined as force majeure but simply crime, should not be counted as FM in this instance.

Material vandalism can be guarded against. Therefore it should not be defined as force majeure unless the vandals showed such ingenuity – or force – that no reasonable prior measures could have been taken to safeguard property and prevent the event/

62. Please provide your thoughts on the proposal that the SEC should define a set of contingency business process arrangements and associated service levels/ obligations which will apply in the event of a major service failure.

This sounds like a sensible arrangement.

63. Please provide your comments on the proposals outlined for the DCC transfer and whether there are any other specific provisions that you suggest need to be covered within the SEC, in addition to the proposed novation agreement for the SEC.

We are concerned by the idea of a provision absolutely to protect the successor DCC from assuming responsibility for unperformed obligations or liabilities of a previous DCC. We understand that the novation agreement for the SEC would place any remaining liabilities or obligations of the existing DCC on that same organisation even after transfer. However, there is a risk that these liabilities and obligations may be difficult to enforce, particularly if the existing DCC is having its licence revoked due to underperformance (and therefore is already difficult to manage) or due to insolvency, in which case it may have trouble discharging any obligations at all. There will no longer be the threat of revocation of licence, so enforcement of obligations and liabilities would, we assume, have to be through legal means. This could prove costly, as well as time consuming, potentially leaving SEC parties without the benefit of these obligations' discharge for an unacceptably long time.

We would suggest that although the successor DCC should not automatically become liable to discharge the obligations of the previous DCC if the previous body can be made to discharge them, at a certain point a decision should be made

(either by the Authority or by the SEC Panel) that it will be less costly, and to the considerable benefit of SEC parties, to offer extra funding to the successor DCC for the discharge of at least some part of these obligations.

In the DCC licence consultation we have argued that in some cases when a DCC has its licence revoked early it may be appropriate to conduct a 'fast-track' procurement process to engage an interim DCC while a full procurement takes place to engage a longer-term successor, particularly if the revocation was due to serious underperformance. We would suggest that it could in this case be appropriate to task the interim DCC with improving standards of service, and/or contract management (depending on the nature of the incumbent's underperformance), including discharge of various unfulfilled obligations and liabilities in order to ensure that standards of service to DCC service users are restored in a timely manner.

Comments on issues not addressed by the consultation questions

Enrolment of SMETS1 meters

We note that while it will be compulsory to enrol meters compliant with future versions of SMETS with the DCC, the government does not intend to apply any future obligations retrospectively. Therefore although the Government will publish enrolment criteria to facilitate enrolment of meters compliant with current versions of SMETS, it will not be compulsory for suppliers to enrol them with the DCC. It is debateable how much incentive there is on all suppliers to enrol meters with the DCC. Arguably dis-incentivising a customer from switching, or creating a situation where the supplier is the 'data controller' has commercial benefits to the incumbent supplier. Even where it is in suppliers' interests to enrol meters, given the obligation to roll out meters across the country, installation of new meters may well become the key focus, rather than the enrolment of old ones. This approach risks a situation in which some SMETS1 meters, which will not be replaced with newer meters as they are compliant with roll-out requirements, will not be enrolled in the DCC even after 2019. Therefore some consumers will be excluded from any benefits of having their meter enrolled with the DCC (such as some energy services and, crucially, an easier and faster switching process) even though they will be paying for those benefits through their energy bills. DECC estimates that around 2 million SMETS 1 meters will be installed. We query what proportion of these they expect to be adopted by the DCC. We would urge the Government to carry out an appropriate risk assessment of this matter considering the impact on the customer experience, access to services and wider competition issues.

We recognise that much is made of the possibility of upgrading SMETS1 meters to SMETS2 meters remotely. In practice there appears to be much scepticism about the viability of this. Given that there will be an obligation to enrol SMETS2 meters with the DCC, we wonder whether a supplier would be required retrospectively to enrol a meter which started out as a SMETS1 but was upgraded to SMETS2.