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1 June 2012

Dear Sir/Madam

**Consultation on the Smart Energy Code April 2012 – consultation reference: URN 12D/034**

Thank you for the opportunity to respond to the above consultation. This response should be regarded as a consolidated response on behalf of UK Power Networks' four electricity distribution licence holding companies – Eastern Power Networks plc, London Power Networks plc, South Eastern Power Networks plc, and UK Power Networks (IDNO) Limited. I can confirm that this response is non-confidential and can be published via the Ofgem website.

Our detailed answers to your questions are in the attached appendix. If any aspect of these require further explanation or clarification, please do not hesitate to contact me in the first instance.

Yours sincerely

Head of Regulation

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## Appendix

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

We believe that the party categories listed are the minimum that should be considered at the SEC Commencement Date. However, we believe the concerns expressed by MAPs in relation to tracking their assets are legitimate and that MAPs should be a nominated party category. We suggest that consideration is given to the DCC User Gateway Service Provider, whose role will be pivotal to the operation of the DCC, being a nominated party category.

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.*

We agree that the requirements and main concerns of MAPs and MOPs in respect of access to DCC services are captured by the consultation. We acknowledge the relative simplicity of Option B (the 'nominated agent' approach) compared with Option C ('nominated meter party') and agree that Option B would meet Meter Operator's reasonable needs. However, we do not believe that Option A whereby suppliers would nominate a MAP as a nominated agent is sufficient to meet MAPs' concerns.

It is important to understand the pivotal role that MAPs will play in terms of ensuring a successful and economic role out of smart meters and in terms of the ongoing management of the meter assets. Any financial risks to MAPs that are inadequately mitigated by the provisions of the SEC will lead to additional costs of financing and hence reduced net benefits to consumers. We therefore support, as a minimum requirement, the tracking of meter assets being included within the future system requirements for the new registration systems (when implemented) to be provided by DCC.

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?*

We support Option B as a minimum requirement, however we prefer Option C, as it still maintains the supplier hub principle and places SEC obligations directly on meter operators. This will enhance SEC compliance, data security, audit and SEC communication with meter operators.

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?*

It is our opinion that meter operators should be given limited SEC participation rights under option B and C matching the existing rights given to these parties under the supplier-hub principle. Participation should be limited to the right to raise changes to code subsidiary documents and submit comments on proposed changes to code subsidiary documents. Meter operator direct input to the code subsidiary change process would result in more effective industry processes.



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?*

We support the aspiration to track assets being included in the proposed DCC registration system as such tracking is core to the meter asset provider function and is an area of weakness in current industry processes.

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

We agree that with the proposed process for accession and that parties must start to take DCC services within six months and that the SEC Panel has the discretion to extend this period if a party is actively working to take DCC services. The proposed processes would ensure that only active participants are involved in the process.

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?*

Unlike the existing industry codes, parties acceding to the SEC are likely to be offering a wide range of services and operate a variety of different business models. Therefore from DCC Go-Live we favour the position that parties acceding to the SEC should have access to appropriate SEC services but not participate in the governance process until they start to take DCC services.

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

Although we have no specific comments on the legal and financial information required, we believe that companies should provide a plan setting out; initial type/ volume of DCC Services that they planning to take, how they will gain any necessary accreditations and set up their IT and systems to interface with the DCC. This information will be required to plan accreditation and related resources.

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)?*

Existing industry parties have infrastructure to support one or both of the existing industry networks. These will need to maintained until at least when registration activates are undertaken by the DCC. To minimise the impact of change and risk we favour an open standards solution that would allow parties the option of delivering/receiving data via one of the existing industry networks of their choice.

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

We agree that government should not, as a matter of principle, mandate a specific solution for the DCC User Gateway. However, while we agree that the DSP bidders should be invited to propose a solution, it will be important to ensure that the solution meets the needs of prospective DCC Service Users (SEC Parties). It will be important not to exclude the extension of an existing industry data networks; indeed we believe there would be considerable merit in terms of de-risking the implementation of DCC services by giving full consideration as to how an existing and proven industry network might be suitably extended to provide the required Gateway. We therefore propose that DSP bidders should not only be invited to propose a solution, they should be explicitly required to give full consideration to the use of an existing industry network and provide full economic justification to support any decision not to use such a network.

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

We agree with the proposed DCC user entry processes.

*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.*

It will be important for the SEC to stipulate the requirements on suppliers and DCC in respect of enrolling (or withdrawing) smart metering systems and notifying relevant SEC Parties. We therefore agree with the proposed rights and obligations set out in Chapter 7. We also agree that in the specific circumstance of a network operator replacing a smart meter (for example as part of a contracted emergency service) the network operators is acting as the supplier's agent; hence the obligation in respect of notification remains with the supplier.

However, Chapter 7 makes no provision for MAPs to be informed of any withdrawal (by a supplier) of a smart metering system from the DCC communications network. With reference to our comments under Q2 - Q5 above, we believe that there should be an obligation on DCC (once the DCC becomes responsible for meter registration) to also notify the relevant MAP. Similarly, in the event of a supplier or their agent replacing a meter (for example a network operator in providing an emergency service), the DCC should be responsible for notifying the registered MAP of the removal of the meter (including reasons for the removal and who the removing party was).

*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?*

The right of the DCC to access a meter system on enrolment is essential to support the enrolment process, security and provide services to DCC parties including network operators' smart grids functionally.

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

We agree with the proposed rights and obligations related to withdrawal and replacement of smart metering systems.



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

We agree with the proposed three specified core communication service eligibility categories.

We are not aware of situations where there are currently two or more importing suppliers (or parties) in relation to a single smart metering system. We would not however preclude the possibility that such a scenario might in future occur; for example it is not inconceivable that a supplier might in future offer a specific service relating to an application served by a dedicated circuit in the consumer's property. An example might be an electric vehicle charging service metered through a dedicated register in the smart meter (or alternatively using a sub-metering arrangement).

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?*

N/A

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

We agree that amendment of core communication services should be subject to SEC modification process.

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

It will be important to maintain control over the range and scope of core communications services without stifling innovation or precluding the possibility of elective services becoming core services. With this in mind, the proposal of using the standard SEC modification process seems sensible.

We agree that it should be possible to request elective services on either a bilateral or multilateral basis.

We do not see any reason to differentiate between core and elective services in terms of SEC requirements for DCC user entry processes relating to the important matters of technical and financial security and data privacy, or indeed to disputes arrangements. Such provisions are essential to the overall integrity of the smart metering system and the functioning of the DCC.

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.*

We agree that all the listed requirements should also apply to the provision of elective services to ensure the same safeguards are in place for all parties.



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?*

We agree that the SEC should set out a process for the provision of an offer for elective services by the DCC. It should recognise that the DCC should have right not to provide terms for an elective service due to capacity or technical constraints.

Once a party or parties have been offered terms by the DCC for an elective service the offer should remain open for a period of three months. Once accepted both the DCC and the party or parties may need an agreed time to implement the elective service.

It will be essential to ensure that any requested elective communication service is subject to terms and conditions that maintain the necessary levels of security and data privacy, and that the nature of the elective service is such that did not amount to a breach or compromise of the principles of data privacy protection laid down in chapters 3, 4 and 5 of the Data Access and Privacy consultation (in respect of suppliers, network operators and third parties respectively).

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?*

Whilst we understand the argument that non-disclosure of commercially sensitive information in relation to elective services might promote innovation (effectively through protection of intellectual property) we are concerned that a proliferation over time of elective services which may have several common features could lead to an uncoordinated and inefficient provision of services by DCC. We question in any case how it will be possible to maintain confidentiality as consumers will presumably need to be made aware of the services they are being offered (and/or competitors will quickly analyse the nature of the elective service that is behind a consumer proposition).

It is also questionable how much scope for innovation there really is and whether the (probably temporary) benefits to the party resulting from that service remaining confidential for a period of time would not be more than offset by the potential benefits arising from elective services being sufficiently visible that collaboration between parties seeking to offer similar services would be encouraged. Collaboration should result in lower overall charges due to standardisation and economies of scale.

These concerns are to some extent addressed by the proposal that DCC should notify SEC Parties of the timing of implementation of changes to its systems and by the fact that the Authority will monitor that the DCC is complying with its revenue restriction condition (and hence not effectively double charging for similar services and over-recovering fixed costs). Nevertheless, our belief remains that full disclosure of information associated with elective services is likely to lead to greater efficiencies and hence lower costs for consumers and that collaboration over elective service provision might actually lead to superior service offerings.

If it is felt important to stimulate innovation by providing some first-mover advantage then a reasonable approach could be that commercial confidentiality relating to an elective service is protected for a defined period of time before being disclosed to all SEC parties.



We see benefit in DCC being restricted to providing requested elective services only from a specified date. This would enable DCC to consider request in the round and hence design its services so as to exploit synergies within such requests and hence reduce its costs (clearly disclosure of elective service offerings would further facilitate such synergies). This should not however preclude DCC from being permitted to consider such requests in the meantime, including before it begins to operate services (especially if such consideration enabled parties to collaborate where synergies became apparent).

We see no reason to specify the time when DCC should be permitted to offer terms but we agree that the DCC should not be obliged to do so until such time necessary to enrol smart metering systems and establish core communication services had elapsed.

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?*

We agree that the SEC should contain provisions requiring the DEC should notify parties of timing and implementation of system changes.

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?*

We agree that the DCC should only be required to offer terms for elective services from a specific date. We propose that the date should be a minimum of 12 months from the start of the provision of core services. The DCC should have the right to request from the SEC Panel an extension to this period for a maximum of an addition 12 months. An extension would only be granted if the SEC Panel were of the view that any extension would aid in the provision of core DCC services.

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

The consultation rightly notes that benefits to network operators will be minimal until (at least) such time that roll-out is substantially complete. The Energy Networks Association (ENA) has provided substantial evidence both to quantify and explain the nature of the potential benefits for electricity network operators associated with the smart metering system. The major component of such benefits will be long-run in nature, i.e. related mainly to the potential for reduced future capital expenditure associated with preparing electricity distribution networks for low carbon transition (in particular the electrification of heat and transport and increased levels of decentralised renewable generation) and the potential for consumers to be influenced through cost-reflective charging to avoid unnecessary electricity consumption at times of peak electricity demand.

This contrasts sharply with the immediate benefits that suppliers will begin to accrue from avoided meter reads and more efficient consumer transactions as smart meters are rolled out and DCC begins to operate services.

The ENA has also critically examined its requirements in respect of both data volumes and data latency and have responded positively to requests from the SMIP team to review those requirements that could potentially be cost-drivers. Significant reductions in requirements have resulted from such reviews. We also believe that the major component of data flows over the smart metering system relates to import consumption data which is required by both suppliers and network operators.



Notwithstanding the above, we agree in principle with the concept of cost-reflectivity in terms of how DCC charges are apportioned between SEC Parties. However, this should include all parties; we are aware of no evidence to support the implicit argument that other parties should be exempt from fixed charges on the basis that this is necessary to promote competition; neither can we see how this might result in consumers paying for fixed costs twice since the Authority would ensure that this is not possible. On the contrary, by not paying a proportionate share of fixed costs, services provided by other parties on the basis of lower than reflective DCC charges would result in a cross-subsidy by suppliers' consumers to consumers enjoying the benefits of energy efficiency (or other) services provided by other parties.

Finally, in determining apportionments of costs between suppliers and network operators, it should of course be remembered that, irrespective of the apportionment methodology, it is consumers who will ultimately meet these costs. It should also be noted that electricity network operators' allowed revenues over the period to the end of March 2015 (the end of the DPCR5 period) make no provision for charges for DCC services.

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.*

We agree in principle with the proposal in respect of 'pay now dispute later' and that for pragmatic reasons (and recognising that the SEC financial security management regime will seek to protect creditors from the risk of bad debt) in the event of a bad debt arising, this should be socialised within the current charging period across all DCC service users.

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.*

We believe that the costs should only be socialised where the DCC has followed good industry practice in terms of debt management. Where it is not able to demonstrate this it should bear the costs of such bad debt.

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

We agree with the proposed functions and powers set out in boxes 12A and 12B.

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

We support panel members acting as direct representatives of the party or class of parties they were elected by or appointed to represent. This provides clarity of role and allows the panel member to more clearly put forward the views of those they represent. To be elected and continue to serve as a panel member they should be employed by a SEC party. This model has been proved to work well in existing codes.



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.*

Given that most large suppliers supply electricity and gas, a two electricity, two gas supplier split is an artificial distinction. Therefore in our opinion, three large suppliers and one small supplier panel members should be able to represent this class of panel membership.

Consumer representation is important and the Authority and government representatives will be able to speak directly on behalf of the consumer in addition to the other panel members who have a direct interest in serving their customers. Therefore we propose that one voting consumer representative provides a better balance to a smaller panel.

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?*

Please see our response to question 29.

Given the position of the DCC we propose that the DCC should be allowed to speak but not vote at panel meetings. The chair should also have the power to exclude the DCC from a closed panel session in exceptional circumstances.

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.*

We support the proposed arrangements for an independent chair appointed for an initial three year term. Given that the chair is appointed and should bring a fresh perspective to the panel we propose that the maximum term of office for the chair should be five years.

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

We support relevant SEC parties nominating and voting by class for SEC panel members to represent them.

We also support the principle that SEC party votes are weighted by market share. Given the importance of smart metering rollout, market share should be based on the total number of meters (smart and dumb) within the mandatory smart metering roll out definition. This principal also works on an enduring basis on post the rollout phase.

This approach allows all active SEC parties to vote and prevents distortion by one group with multiple IDs or large numbers of other users of DCC communication services each with a very small number of customers.

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

We agree with the proposals for SEC panel procedures and decision making.

On a practical point we propose that the right for a SEC party to attend SEC meetings should be subject to notifying the chair in advance and be limited to one person per party.

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?

We support Option 1 coupled with a representative body, please see our response to question 28.

Payment of panel members may not necessarily attract the best candidates and a method needs to be devised that ensures the panel members have relevant up to date experience coupled with a genuine desire to represent SEC members.

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

To show true transparency and independence from the DCC we support the Code Administrator, Secretariat and other specialist services being contracted through a SECCo. This would prevent any conflict of interest and works well for other codes.

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

If a SECCo was established we would support the formation of a limited liability company, similar to the MRA model. To minimise cost and complexity, shareholders could be limited to licence holding parties. Similarly, to prevent the need to maintain a billing and collection system, SECCo income from SEC parties should be collected by the DCC.

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

Our preference would be for the SEC panel to be seen to maintain an independent role in the change processes therefore unless an emergency change was required in less than 24 hours, the SEC panel should not be able to raise a change.

For clarity, only consumer groups represented at the SEC Panel should be allowed to raise a change. Other consumer groups would still have access to the change process via the Authority.

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

We are supportive of the proposed progression paths for modification. We propose strict time limits to conduct impact assessments and the depth of impact assessment should be commensurate with the type of change e.g. SEC, SEC subsidiary document or guidance document. The aim should be a cost effective process that will not get bogged down in extensive delays.

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?

We agree with the proposed view on non-material changes.



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?*

Given the expertise and advice available to the panel we consider that the panel should be able to decide if a change proposal is urgent and determine the time scale.

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

The only area that we have identified that may potentially require a non standard approach to the modification rules may be in the area of system and data security which are potentially areas needing urgent changes and/or confidentiality of the justification for the change.

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?*

We proposed that the SEC panel should be able to delegate the final decision on particular modification to a suitably qualified sub group. This should be linked with a safeguard that a SEC party may appeal a decision of that sub group to the SEC panel.

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

No.

44. *Do you agree that 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?*

We believe that the SEC should only require the SEC panel to report progress against the SEC business plan and activities of the Code Administrator. SEC parties may need to report to the SEC panel if the DCC cannot provide data to support the SEC voting and funding arrangements. We envisage that the DCC will have licence obligations to report on its performance and market penetration of smart metering system.

45. *Are there any particular areas of risk that you believe should be addressed by appropriate compliance/assurance techniques under the SEC?*

There are a number of areas that should be addressed by appropriate risk based compliance and assurance techniques:

- Entry qualification – focusing on processes and procedures interfacing with the DCC and protection of customer data obtained from the DCC. Care must be taken not to duplicate entry qualification under other codes.
- Equipment – processes are in place only to procure accredited equipment which is installed to ensure correct and secure operation with the DCC.
- Monitoring reports – from BSC parties, the DCC and others which may merit further investigation including site visits.
- A reconciliation and disputes process – to resolve inter party differences.

46. *Do you have any views on the most appropriate governance arrangements for any compliance/assurance framework under the SEC?*

A compliance and assurance subgroup should be set up by the SEC to review performance assurance activities and data. The subgroup needs to report regularly to the SEC panel including recommendations to change the performance assurance framework and risks that need to feed into the SEC risk register.

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?*

We believe that liabilities under the SEC should be limited to physical damage and security breaches in line with current industry practice.

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 agree that there should be a cap on the liability for damage and security breaches. Potentially the cap on the DCC may be higher than other SEC parties to reflect their core role in the smart arena. We do not envisage that a capped liability should be a barrier to smaller parties as they can insure against this risk as they do for other general business risks.

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?*

N/A

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?*

We believe that SEC parties should have access to a SEC resolution and disputes process if they are not able to resolve it directly between themselves.

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?*

N/A

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?*

We support a central compliance, assurance and enforcement framework under the SEC as this mirrors good industry practice used elsewhere in the energy sector.

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?*

N/A



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

Based on current drafting of the SEC we believe the following might arise under the SEC may be summarised as:

- Provision of metering systems that fail to provide complete and accurate data and functionality to other users;
- Physical damage of equipment; and
- Security breach related to data or viruses.

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

We agree with the need to have a robust framework in place and advocate the following route base on knowledge of other codes, for non Authority issues:

- Good faith negotiation and internal escalation;
- Mediation;
- Disputes sub-committee; and
- Arbitration.

*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 agree with the role of the SEC panel in the suspension and expulsion of SEC parties.

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

We agree with the proposed rules and procedures set out in Chapter 20.

*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?*

Further consideration needs to be given to the IP of SEC Materials on change of DCC. There needs to be a clear DCC licence provision that the IP for all SEC Materials must be transferred without charge to the next DCC. Without this provision it would inhibit future DCC competition and may result in SEC parties paying twice (once for the development and then via service charges from the new DCC). An alternative model would be for SEC Materials IP to be held by the SECCo.

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

While agreeing with the principles set out in chapter 22, without further details of SEC drafting it is not possible to answer this question.

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

N/A

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.*

The existing codes all have similar definitions of force majeure to that quoted in section 481 of the consultation. The final wording will depend on the content of the final SEC.

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.*

We believe that the SEC panel should have an obligation to regularly review business continuity plans and results of business continuity tests, prepared by the DCC and the Code Administrator.

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.*

Please see our response to question 58.