



## A call for evidence on data access and privacy

## Citizens Advice response to DECC

October 2011



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## Introduction

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Citizens Advice welcomes the opportunity to respond to DECC's consultation on the draft licence conditions and technical specifications for the roll out of smart meters.

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination. The service aims:

- To provide the advice people need for the problems they face.
- To improve the policies and practices that affect people's lives.

The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from more than 3,000 locations in England and Wales, including GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particular dispersed groups.

In 2010/11 the Citizens Advice service in England and Wales advised 2.1 million people on 7.1 million problems. Debt (2.3 million problems) and welfare benefits (2.2 million problems) were the two largest topics on which advice was given. Of the 2.3 million debt problems, almost 104,000 related to fuel debt. In addition, Citizens Advice Bureaux also dealt with over 40,000 problems about a range of other (non-debt) fuel matters.

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## General comments

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We believe that a key principle of determining the data and privacy framework for smart meters should be proportionality; data should only be collected where necessary and regulated data should be narrowly defined and kept to a minimum by using aggregation and anonymisation wherever possible. Where firms wish to collect data beyond that required for regulated duties, explicit, informed consent must be required. Consumer engagement is vital for the smart metering programme to be a success and yet the risk of consumer distrust is high given the widespread lack of trust in energy companies. If customers are concerned that their data is being used for purposes or in a manner of which they do not approve, they may not support the smart metering programme.

Citizens Advice is not in a position to provide detailed evidence on all of the questions proposed in this consultation document. We have therefore limited our responses to those on which we feel we have a view to contribute.

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## Responses to specific questions

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6. Does data need to be collected from all customers all of the time, for theft management, or could there be a trigger for accessing more detailed data (for example where theft is suspected)?

It would seem to us to be disproportionate to collect data from all customers, all the time, in order manage theft of supply. A trigger for accessing detailed data would be a much more balanced response.

## 12. How could smart metering data be used to identify and protect vulnerable consumers? Should such activity be considered a regulated duty and are any licence changes needed to create particular duties on suppliers in this area?

We would be pleased to see any changes that enable suppliers to identify and protect vulnerable consumers more effectively than they currently do. We would suggest that smart metering data may help suppliers to monitor prepayment meter customers' circumstances, for example by keeping track of incidents of self-disconnection, very infrequent or low level top-ups and debt build up. It would be important to strike a balance between using data effectively to help those who need assistance while avoiding intrusion; for example, some customers may choose to top up infrequently or small amounts for reasons other than financial difficulties. Suppliers would need to make sure that if they contacted a customer to offer assistance any response from the customer was recorded accurately and taken into account should that customer's account flag up the same issue in future. That is not to say that suppliers should not contact such a customer again – as circumstances can change and some customers may refuse assistance on the first offer but later accept it – it is simply to say that previous contact must be acknowledged and must inform the approach taken.

In principle, we would support an approach that considered such activity to be a regulated duty, although the detail of this requires significant further consideration to ensure that any data collected or monitored is proportionate and will lead to identifiable benefits for vulnerable consumers.

## 14. Do you agree with the requirement for such data [data to support network companies in maintaining an efficient and economic network] to be anonymised or aggregated wherever possible, and how should this be monitored?

AND

## 15. Would suppliers be expected to advise consumers of network company usage of data given network companies do not have a direct relationship with consumers?

In line with our view that data collection should be proportionate, we agree that data used by network companies in order to manage the network should be anonymised and aggregated wherever possible. We would favour an approach to compliance that requires operators not only to comply, but to demonstrate how they are meeting their obligations. Requiring network operators to produce an annual statement setting out what data they collect and how they use it would appear to be a reasonable way of achieving this, and would assist the regulator in monitoring compliance.

It seems sensible for direct contact with customers to be undertaken by suppliers as they have a relationship with their customers which the network operators do not. We would like to see suppliers obliged (rather than expected) to do this.

16. Are there alternatives to a basic opt-in or opt-out approach to consumer choice such as some form of prompted choice? What are the practical and consumer protection considerations in relation to different options (for example when and how)? From a consumer perspective what alternative approaches and vehicles (for example letter, email, phone) to seek customer consent are there?

We agree that customers must give explicit, informed consent for industry to access any data beyond that which is required by regulation. Consumers must be given full and clear information about what pieces of data must be collected in order to comply with regulation, and what data is additional to this and only collected if they agree. They also must be made aware of how and why any data collected may be used or shared.

We do not believe that presenting options ‘more neutrally as alternative settings as part of “configuring” the smart metering system’ satisfactorily meets the requirement of explicit, informed consent, and it would be disingenuous to claim that it does. While customers could be provided with information in advance, there is likely to be a significant number of customers who would not read such information in any detail and depending on how the ‘settings’ were discussed, may not even recognize that the same issues were under discussion.

In our view and at this stage, the approach that most effectively meets the requirement of explicit, informed consent is an opt-in approach. This approach is also likely to be the most popular with consumers and lead to a greater degree of trust than other options.

Good practice would involve using a range of vehicles – post, email, face-to-face, text, phone – to provide information to customers about data collection and use and to seek consent, depending on the needs of the customer. Information must be provided in Plain English and in a format that is appropriate to the customer’s needs (e.g. large print or audio) and efforts must be made to accommodate alternative languages such as British Sign Language where appropriate.

Customer decisions on whether or not to allow collection of and access to information that is not required by regulation must be kept separate from the decision to transact with the energy company. Customers should be able to enter into a contract with a supplier but choose not to share additional information.

19. What parts of the privacy policy framework do you think should be delivered by regulation and why?

AND

20. What is the most effective way to set out any sector specific protections around privacy (e.g. licence conditions or other alternatives)?

In principle we would support including data privacy requirements within the gas and electricity supply licences as this could strengthen the obligations on suppliers and make enforcement more achievable. The Data Protection Act is weak on regulating the behaviour of third parties, once data is passed on from the initial holder of it, and this gap

could be closed by including requirements in the SLCs; as we understand it, although only suppliers are bound by licence conditions, they can be held ultimately responsible for the behaviour of third parties with which they contract.

## 22. Are there other issues that need to be considered to make using the HAN a viable route for access to data in the home, from either a process or consumer perspective?

We are not in a position to make detailed comments on the technical aspects of providing consumer access to smart metering data, but the key principles we would wish to see taken into account are:

- cost to the customer
- accessibility
- ease of understanding
- security
- availability of assistance.

As stated in our response to DECC's consultation paper on proposed licence conditions and technical specifications that accompanies this call for evidence, whatever technical solution is provided to enable consumers to access data via the HAN, an alternative means of accessing this data (e.g. via the supplier) would be welcome for those customers who remain unable to access the HAN.

