



DECC Consultation – SMIP A Consultation on New Smart Energy Code Content and Related Licence Amendments

Response from E.ON

General Comments:

The majority of the issues discussed in this consultation have been considered in previous documents from DECC for which we have already provided comments.

On a general note it is clear that our original reservations around the liability regime within the Smart Energy Code (SEC) being complex and unnecessary appear to have been validated by events. Instead of creating additional sub-classifications of confidentiality levels it would be better to align the SEC's liability regime with those used in other industry codes.

These have proven robust and practical for their purposes and there is no reason to suggest that this would not be the case for the SEC. If this requires amendments to the DCC's service provider contracts then this should be something that DECC should help facilitate.

Amendments to the DCC Baseline Marginal Adjustment Total appear; from the consultation to be reasonable, however we are not clear on whether there are any consequences of this proposal for the level of charges that Users will be subject to. Therefore before we can support these proposals we would request further clarity from DECC as to the implications on the level of DCC costs and the forecast of future charges.

Responses to consultation questions:

- 1. Do you have any comments on the additions to the Reported List of Service Provider Performance Measures (Annex E)? Do you have any comments on the revised legal drafting in Section H13 and the proposal to incorporate Section H13 into the SEC towards the end of 2015?***

No, these seem reasonable and the suggestion to incorporate them within the SEC at some point towards the end of 2015 is in line with the proposed revised implementation plan for the DCC.



2. Do you have any comments on the proposal for the Secretary of State to formally identify the initial Reported List of Service Provider Performance Measures?

No, although we would appreciate greater clarity on how this process would be communicated with stakeholders.

3. Do you agree with the proposal, and associated legal drafting, to extend the scope of User risk management obligations to include systems that are used to secure communications with the DCC?

We agree with the principle behind the suggestion by DECC to ensure that Users and the DCC maintain a secure communication system. However we do have some reservations about making the obligation too broad and not sufficiently prescriptive.

Industry codes are designed to provide industry participants with clarity as to how they should interact with each other to ensure that the market works appropriately for consumers.

It is therefore helpful for all parties if requirements are clear and unambiguous. Leaving scope for interpretation within the SEC risks undermining this principle and ultimately delivering sub-optimal outcomes for the market and for consumers.

4. Do you agree with our proposal to limit DCC's liabilities in all cases to £1 million when breaching confidentiality of sensitive information and to consequentially amend confidentiality markings? Please provide a rationale for your response.

The reclassification of categories to terms more commonly used in the industry is welcome and should avoid confusion for parties. We were always opposed to the inclusion of unlimited liability within the SEC and have never understood the logic of including this requirement.

They are not found in any other industry code and therefore we would argue that they should be removed from the SEC and this confusing situation could be avoided. If this requires amendments to the contracts with the DCC service providers then this should be something that DECC should help facilitate.



- 5. Do you agree that Parties should nominate to the DCC individuals eligible to receive sensitive information marked as 'classified' to be able to receive such information? Please provide a rationale for your response.**

Yes this sounds a sensible suggestion. From experience with other industry Codes which have contact lists there should also be a requirement for all Users to maintain the accuracy of this list to ensure that it is always up to date.

- 6. Do you have any comments on the proposed amendment to the drafting in Section M8.6 which reinstates the ability of the Panel to remove a Defaulting Party's right to receive core communication services or local command services, but subject to the consent of the Authority where that Party is acting in the capacity of registered supplier or registered network operator?**

No, this would appear to correct the inaccuracy within the current SEC drafting.

- 7. In relation to the proposed licence condition requiring suppliers to take all reasonable steps to secure systems used to communicate with DCC enrolled meters, do you agree with the proposed approach and legal drafting?**

Yes, this would seem to reflect the policy intent from DECC outlined in their consultation response document from July 2013.

- 8. Do you have any comments on the scope for further amendments to each Implementation Due Date and Implementation Milestone Criteria?**

No, this would appear to be a sensible amendment to make considering the uncertain nature of the implementation period of the DCC.

- 9. Do you have any comments on the amendments to the definition of 'Baseline Margin Implementation Total'?**

Before supporting this proposal we would appreciate greater explanation of the financial implications for Users of the DCC. In particular we would like to see if there would be any implications on the level of charges and the forecasts for future years.