



Department for
Business, Energy
& Industrial Strategy

Department for Business, Energy &
Industrial Strategy

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The Authority (Ofgem), the SEC Panel, SEC Parties and
other interested parties

8 June 2020

Dear Colleague,

**SMART METERING IMPLEMENTATION PROGRAMME: GOVERNMENT RESPONSE
TO CONSULTATION ON THE EXTENT TO WHICH THE ENDURING CHANGE OF
SUPPLIER ARRANGEMENTS SHOULD BE SEPARATED FROM OTHER
ARRANGEMENTS UNDER THE SMART ENERGY CODE**

On 26 March 2020, government issued a consultation¹ seeking views on the extent to which the Systems and other arrangements applying in relation to the Enduring Change of Supplier (ECoS)² should be required to be separated from other Systems and arrangements in place under the Smart Energy Code (SEC) in order to ensure robust security.

We received four responses to the consultation which closed on 7 May 2020. We have considered the stakeholder views and the document in the **Annex** constitutes the government response.

Yours faithfully,

Duncan Stone
Deputy Director & Head of Delivery
Smart Metering Implementation Programme

Annex Government Response

¹ <https://smartenergycodecompany.co.uk/latest-news/beis-consultation-on-separation-of-ecos-systems-from-other-dcc-systems/>

² The Enduring Change of Supplier arrangements are changes to the process that the DCC follows when a consumer changes energy supplier and the new supplier seeks to take over control of the Smart Meter and other Devices in the consumer premises. They replace the existing “Transitional Change of Supplier” processes that were originally implemented and which were intended to be temporary. More information on the DCC’s plans to deliver the necessary changes can be found here:

<https://www.smartdcc.co.uk/customer-hub/consultations/dcc-responses/consultation-on-the-delivery-plan-for-enduring-change-of-supplier/>

Annex: Government Response

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2. General Information

Purpose

Following consideration of responses to the smart metering consultation on the extent to which the Enduring Change of Supplier (ECoS) arrangements should be separated from other arrangements under the Smart Energy Code (SEC), this government response provides conclusions on the proposals put forward.

Issued

8 June 2020

Enquiries

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Territorial extent

This government response applies to the gas and electricity markets in Great Britain.

Legal drafting

No legal drafting was included in the consultation which was instead intended to inform DCC's procurement process. The conclusions from this consultation will ultimately be used to inform the actual legal changes to the SEC that will be needed to support the introduction of the ECoS arrangements. It is anticipated that this drafting will be developed in Q1 2021.

3. Introduction

- 3.1. The March 2020 consultation document¹ explained the purpose of the ECoS arrangements and set out the existing separation requirements that apply to the Transitional Change of Supplier (TCoS) Systems. For brevity, this has not been repeated here.
- 3.2. The March 2020 consultation document went on to propose a number of additional separation requirements that would apply to the ECoS systems which included that:
- the existing Separation requirements applying to TCoS should be retained and apply to the ECoS Systems. This means that the ECoS Systems would be required to be Separate from all other limbs of the DCC Live Systems (as well as, for example, being Separate from User Systems).
 - as between the ECoS Systems and the DCC's Access Control Broker (ACB) Systems which form limb (b) within the SEC definition of DCC Live Systems, the following additional Separation requirements would apply:
 - (i) where either of these two Systems receives information purporting to come from the other System, then it should be capable of verifying that the information has originated from the other System and that the information has not been modified after having been sent;
 - (ii) the DCC shall ensure that personnel (including those of DCC and any working on behalf of any External Service Provider) are appropriately segregated such that no individual is capable of introducing a security vulnerability into both Systems;
 - (iii) no person that is involved in the development or customisation of bespoke firmware or software on one of these two Systems within the past 24 months³ (or such shorter period of time as may be approved by the Security Sub Committee) may be involved in the development or customisation of bespoke firmware or software on the other System;
 - (iv) no person may be a Privileged Person in relation to one of these two Systems if they are or have been a Privileged Person in relation to the other System (provided that if they have ceased to be a Privileged Person in relation to one of the Systems, they may be a Privileged Person in relation to the other after a period of not less than 6 months after that cessation has elapsed);
 - (v) the DCC must ensure that External Service Providers of the two Systems are corporately separate at all times. This means that External Service Providers for one System cannot be Affiliates or Related Undertakings⁴ of External Service Providers of the other System; and
 - (vi) in addition to the above, the DCC must ensure that:

³ We are seeking to strike a balance between preventing any individual from having an opportunity to introduce a vulnerability into both Systems and not unduly preventing those with relevant expertise from providing services to DCC.

⁴ By "Affiliates" and "Related Undertakings" we mean the terms as currently defined in the DCC Licence.

- a. where a provider of the ECoS Systems has (or comes to have) an Ultimate Controller (a holding company of the provider of the ECoS Systems that is not itself a subsidiary of another company), the ECoS provider must procure a legally binding undertaking from the Ultimate Controller (which is enforceable by DCC) confirming that it will ensure the required corporate separation is maintained;
 - b. the ECoS contract(s) with DCC oblige(s) the ECoS service provider(s) to ensure that the required corporate separation is maintained; and
 - c. the ECoS contract is such that any breach of the obligations referred to in (b) or (c) is an event of default under the contract entitling DCC to do one or more of the following: (i) require divestment so that the corporate separation is re-established; (ii) terminate the ECoS contract and/or (iii) recover the DCC's costs arising as a direct result of the event of default including any fines or re-procurement costs.
- 3.3. We also proposed that any independent security testing of either system (i.e. the ECoS Systems and ACB Systems) that is used to provide assurance must be carried out by an organisation that is a CHECK⁵ service provider and is not a company that designed or developed either System, nor is it an Affiliate or Related Undertaking of those which have designed or developed either system.
- 3.4. Furthermore, we explained that we did not propose a specific obligation on DCC to split the security testing of the ECoS and ACB Systems between different organisations, but have an expectation that there will be periodic rotation in the organisation(s) that are used to carry out such testing as part of best practice in this area.

4. Consultation Responses

- 4.1. We received four responses to the consultation including three from energy suppliers and one from the DCC. All four respondents either supported the proposals or stated that they had no objection to them.
- 4.2. Two respondents caveated their support with the suggestion that it would be appropriate to review the additional separation requirements if they resulted in substantial additional costs.
- 4.3. One respondent suggested that provision be made in the SEC to ensure that any monies recovered by the DCC under point (vi)(c) in the list above should be fully accounted for in DCC charging statements.
- 4.4. One respondent asked for clarity on two areas:
- whether the separation requirements applied to test systems; and
 - more clarity on which two systems were being referred to in point (iii) of the above list, specifically was it the ECoS Systems and those of the DCC's Data Services Provider.

⁵ CHECK is the scheme under which companies approved by the National Cyber Security Centre can conduct authorised penetration tests of public sector and Critical National Infrastructure systems and networks.

5. Government Response

- 5.1. Whilst we received only four responses to the consultation, as was explained in the consultation document, we did discuss the proposals with the SEC Panel's Security Sub-Committee and the DCC prior to issuing the consultation and the proposals that were put forward for consultation reflected their helpful comments.
- 5.2. In light of the prior support from the Security Sub-Committee and the general support for the proposals in consultation responses the Government concludes that the additional separation measures should be adopted as proposed.
- 5.3. We agree with the respondents who suggested that if the separation requirements result in material additional costs, then they should be reconsidered and should this issue arise we encourage the DCC to bring this to the attention of BEIS, Ofgem and the SEC Panel. In this context we note that in their response, the DCC stated that if the separation requirements adversely impact on future procurements, they would bring this to BEIS's attention, and we suggest that they also notify the SEC Panel and Ofgem as appropriate.
- 5.4. In response to the suggestion that changes to the SEC should be made to ensure that any monies recovered from DCC Service Providers following a breach of their contract would be appropriately accounted for, we do not think a change to the legal framework is needed. If DCC recovers money from one of its external service providers, for example following a breach of an external service provider contract, any such revenues would result in a reduction in the External Costs (as defined in the DCC licence) and consequently in the DCC's allowable revenues under the price control conditions of its licence. The precise timing of whether the monies are returned through a reduction in charges within the Regulatory Year in which they were received, or through a reduction in charges in the following Regulatory Year (with appropriate financing adjustments) would be a matter for DCC and Ofgem to determine.
- 5.5. We do not consider DCC's test systems to form part of DCC Live Systems and do not intend that the separation requirements should apply between any two parts of DCC's test systems, although DCC may wish to separate in test in order to replicate the live environment. The requirements would apply only between parts of the live production systems, although code that is being tested and which will ultimately to be deployed in the live environments will need to have been developed on separate (non-live) systems for each of the two limbs (i.e. ECoS and ACB) and by separate personnel.
- 5.6. The two parts of the DCC Systems that we are proposing the additional Separation should apply between are:
 - the ECoS Systems, i.e. the systems that are used to carry out the activities that are (or will be) ascribed to the CoS Party under the SEC following the introduction of the ECoS Arrangements; and
 - the DCC's Access Control Broker Systems. By this we do not mean the entirety of the DCC's Data Service Providers Systems, but only a subset of them. Specifically, those that fall under the definition of limb (b) of the definition of DCC Live Systems in the SEC. This includes those systems that

apply Threshold Anomaly Detection and those which are used to calculate Message Authentication Codes that form part of Commands sent to Devices.

- 5.7. We will consult on legal drafting to implement the above-mentioned policy conclusions in due course, with a consultation anticipated in Q1 2021.