

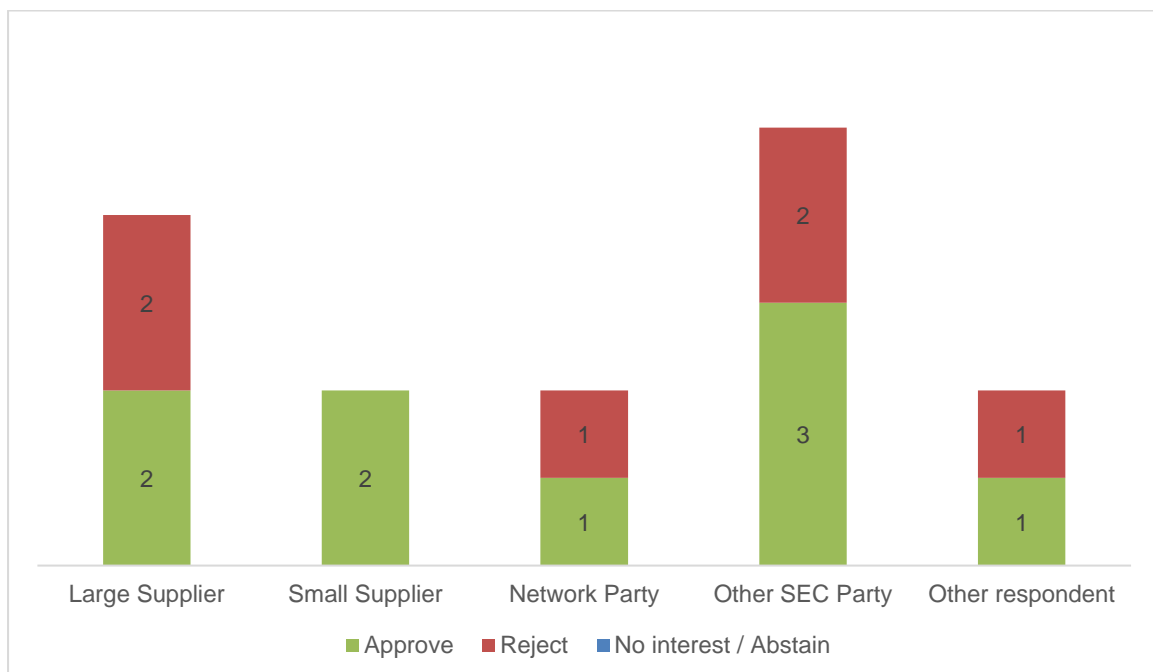
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MP219 ‘Accessing Consumption Data on behalf of SEC Parties’ Modification Report Consultation responses

About this document

This document contains the full collated responses received to the MP219 Modification Report Consultation.

Summary of responses



Question 1: Do you believe that MP219 should be approved or rejected?

Question 1				
Respondent	Category	Response	Rationale	SECAS Response
British Gas	Large Supplier	Approve	General SEC objectives (a) and (c).	-
Calvin Asset Management Ltd	Other SEC Party	Approve	We are supportive of the approval of this change to assist with delivering high level consumer benefits of smart metering in terms of helping to reduce energy consumption and with future plans to help with forecasting demands on the energy system. We consider this change will assist in the facilitation of SEC objectives A and E.	-
Citizens Advice	Other Respondent	Reject	<p>The Data Access and Privacy Framework, which underpins the access by Parties to smart meter data, was developed following wide public consultation including input from Suppliers, Smart Energy GB, Citizens Advice, and many other stakeholders. This Framework gave assurance to consumers, consumer groups, ministers, government departments, Ofgem, and others as to how data would be accessed and used. The BEIS Review of the Data Access and Privacy Framework November 2018 (pages 10-11) points to the current arrangements where explicit consent was the basis for third parties (termed Other Users) to access such data.</p> <p>We are aware from our own research of the concerns by consumers as to the access and usage of their data. They want to know who is using their data and for what</p>	-

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			<p>purposes, and how to refuse or withdraw access. 89% of consumers said the current opt-out abilities are either important or very important. A consumer data consent dashboard has been discussed in the past, and agreed by relevant stakeholders to be an important and necessary data portal, so that consumers can see who is using their data, be able to understand why it is being used, and allow for ready withdrawal of consent. We have strong concerns regarding MP219 and believe that a change to the current explicit consent requirements should not be amended by the use of a SEC modification process which is not subject to the much wider consultation process as was used to develop the Data Access and Privacy Framework. We also believe that the absence of a consumer data dashboard weakens consumer protections in consumers being able to understand access to and usage of consumers' data. Without such a dashboard being in place, we believe it is premature to allow for Other Users to access consumer smart meter data without explicit consent.</p> <p>Confidence in the processes for accessing data and how it is used is essential to ensure the wider rollout of smart meters. A weakening of consumer protections in this regard may undermine the Smart Meter Implementation Programme as a whole which is a necessary part of meeting net zero government timeframes.</p>	

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			Link to Citizens Advice research referenced above: Clear and In Control: https://www.citizensadvice.org.uk/about-us/our-work/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-policy-research/clear-and-in-control .	
Green Energy UK Ltd	Small Supplier	Approve	This modification will facilitate a much smoother registration journey for customers signing up to services which require sharing of smart meter data, such as the Demand Flexibility Service. Customers will already have consented to the supplier's chosen adapter being used for collecting HH data – MP219 simply means that there is no need to gather consent for every adapter that a supplier wants to use for delivering such services to customers.	-
Hildebrand Technology Ltd	Other SEC Party	Reject	<p>We believe that in its current form MP219 should not be approved for the following reasons:</p> <ol style="list-style-type: none"> 1. Our over-arching concerns are similar to those made by Citizen's Advice and their concluding paragraph (see p9 of the MP219 Modification Report): "Confidence in the processes for accessing data and how it is used is essential to ensure the wider rollout of smart meters. A weakening of consumer protections in this regard may undermine the Smart Meter Implementation Programme as a whole which is a necessary part of meeting net zero government timeframes." 	<p>With reference to point 2) SECAS has included one example in the Modification Report about one way in which the Proposer can collect consent. There are many methods of gaining consent which SEC Parties can use which are not set out in detail. MP219 can be included across all consent models and is generalised to Other Users.</p> <p>With reference to point 3) it is the responsibility of the employing Supplier or Network Party to inform the Other User</p>

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			<p>2. Wording is specific to the methodology of one Other User's (OU) approved methods of verification and consent; the SecMod should be generalisable and drafted to apply to any Party in the OU role.Wording</p> <p>3. Document references the Supplier being responsible for letting the OU know of a COS - but the scope of the modification is not just for Suppliers but also Network Parties. To our knowledge, Network Parties do not have the ability to identify a COS, so how would the trigger to end the data capture work? With Faster Switching in five days what controls will there be to ensure that the OU stops retrieving the energy consumers' data in a timely manner?</p> <p>4. How will ensuring that the energy consumers' data has been deleted by the OU be controlled? Who owns responsibility for doing this assurance - the Energy Supplier / Network Party (Employing Party) or the SECAS IPA? If it is the Employing Party, would this become part of their License Conditions or is the contract between the two parties enough?</p> <p>5. Final bullet of Section 3 states " The Other User will be required to determine that the employing Party has provided notification to Energy Consumers that the Other User will be accessing Consumption Data on the employing Party's behalf, at the point, or prior to,</p>	<p>when they must stop collecting data. Whilst Consumers can change between Suppliers relatively easy, Network Parties are set by geographical location. Only in very rare circumstances will a customer be changed from one Network Party to another. Should this occur, the employing Party will still be responsible for informing the Other User to stop collecting the Energy Consumer's data as they are no longer their customer.</p> <p>With reference to point 4) as part of the changes to the Privacy Controls Framework which will take place if the modification is approved by OFGEM, the Other User will have to retain records of the Consumers they have collected Consumption Data from to prove they are Consumers of the employing Party. The Other User is also bound by the changes to SEC Section I1.2 that they cannot do anything else with the Consumption Data than collect it and pass it back to the employing Party.</p>

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			<p>the Other User accessing Consumption Data and at such intervals as are reasonably determined appropriate thereafter." If the OU is the Data Processor, perhaps this obligation should be on the employing Party as part of their annual SECAS security audit. How will the definition of the intervals referenced be determined? In line with the 18-month consent limitation on an OU when they have Unambiguous Consent, perhaps this could be defined as part of the SecMod.</p> <p>6. Risks as currently worded is that it:</p> <p>a. may not pass the "Daily Mail" sniff test (with related reputational damage to the SMS as a whole)</p> <p>needs to be future proofed and include more consideration of how the SMS is evolving with new parties and products and solutions that could exploit this proposed SecMod - basically there is a risk of 'unintended consequences'.</p>	
National Grid Electricity Distribution	Networks Party	Approve	N/A	
N3rgy	Other SEC Party	Approve	We vigorously support the proposed changes outlined in modification MP219 and recommend this modification is	

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			moved to implementation at the soonest possible opportunity.	
Octopus Energy Ltd	Large Supplier	Reject	<p>We believe that the support/approval of Citizens Advice (as key representatives of Energy Consumers) would be pivotal for this modification, and without this support, we believe there is a greater risk to the SMIP objectives than the benefits that this modification could bring. Therefore, unless the concerns raised by Citizens Advice are alleviated and they are supportive of this modification, we would not be in a position to approve this modification. As noted in the Modification report, the business case for this modification (raised by an Other User), seems to be for the Proposer to sell services rather than to benefit SEC Parties. If the issue cited in this modification was significantly hindering the ability for a Supplier or Network Party to use an Other User to collect Consumption Data on their behalf then you'd expect it to have been raised by a Supplier or Network Operator Party. There is also no means of confirming the likely increase or decrease in traffic, and although it could be safe to assume that a Supplier or Network Party contracting an Other User to collect data on their behalf, there is no guarantee of that and it could quite easily create duplication in requests for data. Given the current traffic levels and significant costs associated with supporting traffic demand (costs largely covered by Suppliers and Network Operators), it does not</p>	

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			<p>seem sensible to open up the possibility of significant costs when the breadth and depth of the business case are questionable. We believe the points regarding the demand on traffic and the proposer not being a Supplier or Network Operator are not showstoppers from our perspective. We believe these are valid risks but not significant enough to reject the modification. However, our biggest concern lies with the points raised by Citizens Advice in the Modification report. This modification could be perceived as blurring the lines of consent when it comes to access to data, and Energy Consumers may be unhappy that decisions have been made without their input to extend their consent beyond the party they have a direct relationship with (through unambiguous consent). I agree and accept that Other Users can gain access to this data and act on behalf of Suppliers or Network Operators in the role of Data Processor but unambiguous consent is still required between the customer and the party that is requesting, processing and passing on that customer's data, even if those actions are on behalf of another party. There are concerns that this could drive further negative views towards the Smart Metering Implementation Programme (SMIP) which may negatively impact Energy Consumers' desire for Smart Metering equipment and services and have a significant impact on Industry's ability to meet Smart Installation targets (hindering SEC</p>	

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			objectives a and f). Therefore, as noted above we would expect support and approval from Citizens Advice before we can provide approval for this modification.	
OVO	Large Supplier	Reject	<p>We have concerns with what this modification is proposing in terms of traffic management on the DCC system and the impact that this will have on consumers. It is incredibly easy for a modification like this to be approved based on the minimal cost, but without knowing the exact impact that this modification will have we are unable to agree with the proposal. There is a likely possibility that this modification will have huge impacts on capacity when we are already feeling pain and seeing the effects of Other User activity.</p> <p>We also cannot ignore, unless something drastically changes under MP218, that these types of modifications will not be paid for by the Proposer. We are struggling to see the true benefits for those that will be paying for these modifications.</p> <p>We are yet to see support of this modification from the Working Group.</p>	
Richard Fitton	Other Respondent	Approve	I agree this this change shall be made as this will open the data to a wider audience.	
Scottish and Southern	Networks Party	Reject	We believe that this modification will more greatly improve the process of other users collecting data on behalf of	SECAS cannot confirm if this modification will increase or decrease traffic across the

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Electricity Networks			<p>suppliers and network parties as the unambiguous consent is removed. This is not seen as an issue by SSEN as the consent will sit with the supplier or network party as described in the modification proposal and legal text.</p> <p>It is important to note that although we believe the core solution for this modification will resolve the issue. We have a key concern that this modification introduces a risk related to network traffic capacity. If data is collected by the contracted other user, there are no restraints about how or when this data is collected and how frequently and could introduce capacity issues and constraints across the network which we cannot see being addressed within the modification report.</p> <p>We feel that this needs to be further addressed to understand any potential traffic capacity issues that could be introduced by this modification.</p>	DCC System as neither we nor the DCC can predict how many organisations will use this service or if they will wholly outsource collection of data or continue to collect data alongside this service. As such, SECAS has not included any information about traffic management other than the statement that we have no information.
Shell Energy Retail	Large Supplier	Approve	<p>MP219 should be approved and supports the General SEC Objectives, references SEC Section C1.1 (a) to (e), as follows:-</p> <ul style="list-style-type: none"> • Para (a): Improves the efficient operation of Smart Metering Systems (by facilitating access to data). • Para (b): Enables greater participation of Customers which will bring increased volume of 	

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			<p>Consumption Data, and other messages, providing a clear market signal on where DCC should focus, for the ongoing development and operation of Mandatory Business Services, and facilitation of effective competition in Commercial Activities for all parties.</p> <ul style="list-style-type: none"> • Para (c): Simplifies access to data for Other Users, on behalf of Energy Suppliers, and so enables their Customers to participate in schemes, such as DFS, more easily. • Para (d): Improves effective competition, by removing the disparity, and increased hurdle for those Customers whose Energy Suppliers use Other Users, compared with those Energy Suppliers that don't, to deliver Consumption data-related services. • Para (e): Simplifies access to data for Other Users, on behalf of Network parties, and so facilitates access to Consumption data to better inform the design and operation of Energy Networks. <p>We do not believe that the modification will impact General SEC objective (f), as it does not change the requirements and obligations on parties required by Data Protection Legislation.</p>	

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			The modification has no material consequence for General SEC Objectives (g) and (h).	
Smart Meter Assets 1 Limited	Other SEC Party	Reject	<p>There are 2 reasons for our response;</p> <p>Firstly we are not convinced there is a need for this – the modification has been raised by a commercial entity looking to offer services. It was not raise, and has not been supported by the entities who are claimed to want / value the service.</p> <p>Secondly, despite the assurances sought by the proposer and the SECAS Change Team during the progression of this modification, we are concerned that this may set a dangerous precedent and have unintended consequences for data security which could be to the detriment of consumer confidence in the Smart metering programme.</p>	
SMS Plc	Other SEC Party	Approve	This enables a simple access to critical services and removed the reliance on IHD's being paired and aligned, or the need to follow manual and time-consuming consent models. Without reducing privacy and security obligations	
SSE Energy Supply Ltd	Small Supplier	Approve	We believe that this modification supports several of the SEC objectives. Firstly, it is an enabler of the third objective in that it allows consumers to better facilitate the management of their gas and electricity. This modification also enables the fifth objective to be better met as it will	

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			allow innovation in the energy sector by enabling third parties to operate on behalf of Suppliers to provide enhanced offerings while retaining an easily traceable and verifiable audit trail of consent. This modification also supports the sixth SEC objective in that it clearly states and requires clear, unambiguous consent to obtain consumption data.	

Question 2: Please provide any further comments you may have.

Question 2			
Respondent	Category	Comments	SECAS Response
British Gas	Large Supplier	<p>We know there has been a lot of concern surrounding this modification, and whether it could lead to mis-use of customer's smart consumption data by third parties, without the appropriate permissions.</p> <p>However, when you actually read the Legal text change, what is being proposed seems to be strictly limited in scope, and not as radical as it seems to have been 'interpreted' in many of the discussions. For example, the proposed new clause I1.2(c) clearly states that (where that User is not the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor or Gas Transporter for that Smart Metering System and is relying on paragraph (c) of the definition of Appropriate Permission) the <u>User obtains Consumption Data only for (and in accordance with the rights and duties of) the Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor and/or Gas Transporter by which the User is contracted (and does not obtain or use the Consumption Data for any other purpose).</u></p> <p>With these restrictions in place, and the penalties (in I1.2A) on <u>both</u> the employing Party and the employed other User, should any breach occur, this does seem to be a sensible, practical proposal, that could help both smaller Suppliers and – in some cases larger Suppliers too (eg when new propositions such as last winter's demand side response offerings need to come to market quickly).</p> <p>We would also expect the Energy Supplier's privacy notice to include reference to this arrangement. However, that would be something for</p>	Should a Supplier or Network Operator wish to use an Other User to collect data on their behalf then they would need to update their privacy notice accordingly.

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Question 2			
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		the Energy Supplier to put in place, not under the jurisdiction of this modification.	
Calvin Asset Management Ltd	Other SEC Party	As per our response to Question 1 we are supportive of the change. We believe this will encourage Other Users to be able to support Suppliers in obtaining key data to be able to assist consumers and the wider energy industry. We understand appropriate controls will be introduced to ensure Other Users are only obtaining this data and using it for the purposes as defined by their contractual agreement with the Suppliers and believe these to be necessary to help guard against potential misuse of data. We are also in agreement that the responsibility to inform consumers of who has access to their consumption data remains with the supplier and this should be validated by the Other User in advance of any activity. Controls need to be introduced by the Other User to ensure this remains appropriate.	
Citizens Advice	Other SEC Party	-	
Green Energy UK Ltd	Small Supplier	We strongly support this proposal and wish to see it implemented as soon as possible.	
Hildebrand	Other SEC Party	1. Energy Suppliers and Network Parties are referenced in the SecMod but it isn't clear how the consents and revocations and data management responsibilities will be treated differently in each case. Perhaps create a table within the document that lists the scenarios and how they will be dealt with by 1. Energy Supplier and 2. Network Party, or where not applicable, make this explicit.	With reference to point 2) SECAS agrees that alternative wording may have made this clearer. The Other User will only be allowed to collect Consumption Data and pass it back to the employing Party.

Question 2			
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		<p>2. Language could do with being clarified in some areas: "The Proposer believes that this Draft Proposal will better facilitate SEC Objective (a)3 and (c)4 by enabling Other Users to access consumer data and make this available to the consumers through their services to help them make informed decisions about their usage." The intention of the SecMod is apparently to allow the OU to inherit the energy consumers' consent from the Energy Supplier; it makes no reference to how the data will be used and explicitly states elsewhere that the OU won't be using the data, just capturing it and returning it to the employing party. Statements on how the proposal might facilitate SEC Objectives should be framed accordingly. There appears to be no intent to allow the OU to deliver the data to consumers directly, or through one of their customers, on behalf of the Energy Supplier, but some of the phrasing suggests this might be an option, for example: "This modification will have a positive impact on lowering consumer bills. Other Users acting on behalf of Suppliers and Network Parties will be able to collect Consumption Data for Energy Consumers ensuring they have accurate information rather than relying on estimated readings. This will also allow consumers to have a better understanding of their usage and take advantage of tariffs which are better suited to their energy consumption needs." There are a number of ways the employing party might use the data; they aren't relevant to the Sec Mod.</p> <p>3. Some of the current phrasing risks confusion about whether OU is acting purely as a Data Processor or not; concluding statements</p>	<p>SECAS can confirm that the Other User will NOT be offering the services directly.</p> <p>SECAS notes the comment about how Suppliers and Network Parties may use the data. SECAS provided a number of examples of how the data might be used to provide context to the reader. This is not the complete list but to give an idea about the end-to-end process once the Other User has collected the data.</p> <p>With reference to point 3) The Other User will remain as Data Processor, while the Supplier or Network Party will be the Data Controller.</p> <p>With reference to point 4) The SECAS IPA will check the employing Party and Other User to ensure they have abided by all constraints upon them.</p>

Question 2			
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		<p>imply that the Other User is offering beneficial services directly to the Energy Consumer - at that point they presumably are a Data Controller? It is noted that page 13 of MP219 states " This is because this modification has been designed so that an Other User is likely to be acting as a Data Processor on behalf of the employing Party." - suggest instead of "likely to be", the statement is "will be" to remove ambiguity. We note that this point is made very clear in the section on p 14 "Data Processor and Data Controller".</p> <p>4. Dialogue with SECAS about the modification led to the clarification that " the Supplier will remain responsible for the actions of the OU"; how will this responsibility be controlled and audited on behalf of the Energy Consumer? Would it become part of the Energy Suppliers / Network Parties Annual Security Audit with SECAS?</p> <p>p.11 states " Other Users must return the Consumption Data they have been instructed to collect back to the employing Party." which implies a time boxed period. Suggest clarifying this process and related requirements (and controls) within the Solution section.</p>	
National Grid Electricity Distribution	Networks Party	N/A	
N3rgy	Other SEC Party	-	
Octopus Energy Ltd	Large Supplier	-	

Question 2			
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OVO	Large Supplier	-	
Richard Fitton	Other Respondent	-	
Scottish and Southern Electricity Networks	Networks Party	N/A	
Shell Energy Retail	Large Supplier	The success of DFS, and other services like it, requires mass participation, in co-located areas, for it to be effective. It cannot be right, therefore, to undermine the opportunity to maximise Customers participation, because of an additional administrative overhead for repeated consent from Customers, by virtue of their Energy Supplier's outsourcing arrangements. However, we recognise that the data controller must be sure that the purpose for which they have Customer consent.	
Smart Meter Assets 1 Limited	Other SEC Party	Without a confirmed need for this service (other than that claimed by the proposer) we do not believe we should risk eroding consumer data protections.	
SMS Plc	Other SEC Party	This needs to be an ad-hoc release. As Energy Suppliers, especially I&C Energy Suppliers, require this mod being live, in order to participate in NGESO's Demand Flexibility Service and offer DFS to their customers. Without this being live before then (1 st October 2023)	

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		the uptake in DFS will be lower and impact could result in blackouts or coal reserves being used.	
SSE Energy Supply Ltd	Small Supplier	<p>MP219 looks to align the implementation of the Privacy controls as set out in SEC I1.2 with the expectations as set out in the Privacy Controls Framework (PCF), where in the section on what the IPA would expect to see it has a clearly set out expectation that the consent may be gathered by the Supplier, however the Other User must be able to satisfy themselves that Appropriate Permission had been given by the consumer. This Mod is looking to align the Legal Text with the expectations of the IPA as set out in the PCF.</p> <p>We expect this to only apply where an Other User is collecting consumption data on behalf of an Energy Supplier, who is a SEC Party, or 3rd party innovation/service provider, who is a SEC Party, who would then be responsible for ensuring that Unambiguous Consent is obtained to allow access to the consumers consumption data. This Unambiguous Consent should be evidencable and available on request, and in obtaining consent the Supplier or 3rd party innovation/service provider, must be clear and transparent regarding who is collecting the data and any intermediaries involved and would not have any impact on the consent requirements of Other Users who are obtaining consumption data on behalf of consumers for a third party, i.e., for use in an energy consumption usage app.</p> <p>Unambiguous consent should also comply with the provisions of UK GDPR and should include informing the consumer of who is collecting, processing and storing their personal information. We would suggest</p>	

Question 2			
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		<p>updating the Privacy Controls Framework to make this clear and to set the expectation that during a Privacy Assessment this will be a consideration.</p> <p>We do not support Implied Consent being introduced to the SEC, nor do we believe that Legitimate Interest should be introduced. To ensure the ongoing public perception that their Smart Metering Data is secure we believe that Unambiguous Consent should always be obtained and be evidencable.</p>	