











Modification	At what stage is this document in the process?
<h1>0593V:</h1> <h2>Provision of access to Domestic Consumer data for Price Comparison Websites and Third Party Intermediaries</h2>	<div> <div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div> </div>
<p>Purpose of Modification:</p> <p>This is an enabling modification, which seeks to create the necessary permissions in UNC to permit the release of domestic consumer data to Price Comparison Websites (PCWs) and Third Party Intermediaries (TPIs) to satisfy the CMA Energy Market requirements. The release of data is subject to validations undertaken by the Transporter and would be pursuant to data protection principles.</p>	
	<p>The Proposer recommends that this modification should be:</p> <ul style="list-style-type: none"> Considered by the Panel <p>The modification will be presented by the Proposer to the Panel on 20 July 2017.</p> <p>The Panel will consider the Proposer's recommendation and determine the appropriate route.</p>
	<p>High Impact: N/A</p>
	<p>Medium Impact: N/A</p>
	<p>Low Impact: Transporters' Agent</p>

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Timetable		 enquiries@gasgovernance.co.uk
This is a varied and amended modification.		 0121 288 2107
The Proposer recommends the following timetable:		Proposer: Shanna Key
Initial consideration by Panel	20 July 2017	 skey@northerngas.co.uk
Draft Modification Report issued for consultation	20 July 2017	 0113 397 5326
Consultation Close-out for representations	10 August 2017	Other: Tahera Choudhury
Final Modification Report available for Panel	11 August 2017	 Tahera.Choudhury@xoserve.com
Modification Panel decision	17 August 2017	 0121 623 2103

1 Summary

What

This is an enabling modification seeking to grant permission to release domestic consumer data to Price Comparison Websites (PCWs) /Third Party Intermediaries (TPIs).

Why

The Competition and Market Authority (CMA) Energy Markets Investigation proposed a requirement for Transporters to provide PCWs/TPIs access to data for the purpose of allowing them to check or obtain MPRNs for consumers seeking to switch supplier, and to check other information provided by these consumers against the data held by the Transporter. The release of this data is strictly limited for these purposes only.

How

In order to allow PCWs/TPIs to be permitted access to domestic consumer data, the necessary permission and any restrictions or requirements on PCWs/TPIs needs to be created within the Uniform Network Code (UNC), with the service provided in SPAA Schedule 23, section 6.4.

2 UNC Governance

Justification for Self-Governance Criteria

This modification qualifies for self-governance as it will not have a material impact on parties to the UNC, consumers or competition and is simply allowing the release of data subject to pre-defined conditions.

The Panel determined that this modification did not meet the Self Governance criteria due to the impact that the service can potentially have on market competition.

The Workgroup voted that this modification did not meet the Self Governance criteria due to the impact that the service can potentially have on market competition.

Fast Track Self-Governance Criteria

This Modification is not suitable for Fast Track Self-Governance.

Requested Next Steps

This modification should:

- be ~~assessed by a Workgroup~~ considered by the Panel.

3 Why Change?

The CMA issued its Energy Market investigation final report in June 2016 (the Report). The Report sets out reasoning for erroneous transfers and failed switches, and concludes that there is a requirement for PCWs to be granted access to data pertinent to the switching process. This will allow them to check or obtain MPRNs for consumers seeking to switch supplier and to check other information provided by these consumers. This should help to reduce the number of erroneous transfers and failed switches. Use of the data by PCWs is strictly limited to these purposes only.

The CMA has placed an Order on CDSP and the Gas Transporters to grant data access to PCWs upon request, subject to reasonable access conditions, to assist consumers seeking to switch. The data to be included is: Supply Meter Point Reference Number, supply point address, Meter Post Code, supplier,

meter mechanism, network operator, meter capacity, meter serial number, Annual Quantity, Local Distribution Zone

This modification would, with sufficient controls in place, grant permissions to the above data, for PCWs.

The confidentiality and service agreements are not to be included in the UNC solution itself; however, in order to ensure compliance of the data in accordance with the Data Protection Act, PCWs will be subject to, but not limited to, the following principles which will be solidified in a forthcoming service build:

- Legitimate justification will be required by PCWs for accessing this information. This will be subject to confidentiality agreements between PCWs and the Gas Transporters, and a contract with the CSDP for the provision of the service.
- PCWs access to data will be subject to organisational validations and conditions, as set out in legal contracts between PCWs and the CSDP. The relevant section of the UNC will be amended to include the definition of PCWs.
 - PCWs are recommended to be part of the Ofgem Confidence Code for faster processing of organisational validations.
- The data provided is confidential information and is therefore only permitted to be accessed by PCWs (subject to organisational validations) where consent has been obtained from the relevant consumer, through a clear statement of consent on the PCWs website, which will be required to be actively triggered by a consumer.
- Consumer consent and data accessed by PCWs will be securely held by PCWs for no longer than reasonably required to comply with relevant legislation.
- The CSDP has the right to audit PCWs, without notice, to ensure data is being used solely, with consumer consent, for the purposes of facilitating change of supplier activity.
- The CDSP has the right to request PCWs to produce evidence of the following information, but are not limited to only this information: consumer consent, data obtained, time periods data was obtained for, switching evidence (if switch took place), and data retention policies.
- Where any suspected misuse comes to the attention of the CDSP, including via a third party or an audit or security investigation, then the CSDP has the right (after appropriate investigation) to cancel provisions of access to data to the PCW.
- If any of the evidence requested by the CSDP, as specified within the UNC and legal contracts, is not provided within a reasonable timeframe, then the CSDP has the right to immediately cancel provisions of access to data to the PCW.

The requirement to provide suitable data is set out within the CMA order and is supported by Ofgem. Gas Transporters are actively supporting these requirements.

The proposer believes that this modification should be considered as 'enabling' since the change would mainly be of benefit to PCWs and Suppliers, which are not Code parties and therefore, of indirect benefit to UNC parties.

~~The CMA issued its Energy Market investigation final report in June 2016 (the Report). The Report sets out reasoning for erroneous transfers and failed switches, and concludes that there is a requirement for PCWs/TPIs to be given access with the same conditions and in the same manner as is currently the case for suppliers. This will allow them to check or obtain MPRNs for consumers seeking to switch supplier and to check other information provided by these consumers. This should help to reduce the number of erroneous transfers and failed switches. Use of the data by PCWs/TPIs is strictly limited to these purposes only.~~

~~The CMA intends to place an 'order' on Xoserve and the Gas Transporters to grant data access to PCWs/TPIs upon request, subject to reasonable access conditions, to assist consumers seeking to switch.~~

~~This modification would, with sufficient controls in place, grant permissions to the above data, for PCWs/TPIs.~~

~~The requirement to provide suitable data will be set out within the CMA order and is supported by Ofgem. Gas Transporters are actively supporting these requirements, removing the need for a licence obligation.~~

~~The proposer believes that this modification should be considered as 'enabling' since the change would mainly be of benefit to PCWs/TPIs and Suppliers, which are not Code parties and therefore, of indirect benefit to UNG parties.~~

4 Code Specific Matters

Reference Documents

Please find the link for: CMA Energy Market Investigation – Final report here;

<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

Some of the relevant paragraphs are as below:

13.324 We agree with suppliers that the terms on which PCWs are provided with access to the ECOES and SCOGES databases should allow for them to check or obtain MPAN and MPRN numbers for customers seeking to switch supplier and to check other information provided by these customers against that held in the database and should be strictly limited to these purposes. We would expect that the conditions for accessing the ECOES and SCOGES databases to include conditions that strictly limit the use of data for these purposes.

13.325 We also agree that the number of erroneous and failed transfers avoided might be small. However, we consider that a small number of erroneous and failed transfers could be expected to have a wide impact on customer perceptions (see paragraph 13.352) and disproportionate impact on domestic customers' confidence in the use of PCWs and perception about the ease of switching more generally.

13.330 Ofgem said it strongly agreed with implementing the remedy through an order and suggested that to improve the prospect of timely implementation the CMA should specify a timescale in the order. Ofgem also said the scope of the data that PCWs should be able to access should be clarified to assist speedy implementation.

13.343 The aim of this remedy is to reduce actual and perceived barriers to switching resulting from erroneous transfers and failed switches, and we consider, based on responses to our provisional decision on remedies 265, that access to the ECOES and SCOGES databases will also benefit other TPIs providing similar services to PCWs.

13.344 In light of the above, this remedy will require (through a CMA order) the code administrator or governing body with authority to grant access to the ECOES database to grant access to the database to PCWs (and other TPIs providing similar services). This remedy will also require (through a CMA order) gas transporters to grant access to the SCOGES database to PCWs (and other TPIs providing similar services) on reasonable terms. We understand that amendments to the relevant industry codes may be required. Therefore, this remedy will also require gas transporters to make any necessary amendments to the Uniform Network Code.

13.345 This remedy will enable PCWs (and other TPIs providing similar services) to check or obtain MPAN and MPRN numbers for customers seeking to switch supplier and to check other information provided by these customers against that held on the databases. Use of the data by PCWs (and other TPIs providing similar services) should be strictly limited to these purposes. Any charge for access to the data should be based on the incremental cost to the database administrators of providing this access.

Please find the link to a further letter from the CMA regarding acceptable access solutions here:
<https://www.gov.uk/cma-cases/energy-market-investigation>

5 Solution

Update after Panel referral on 16 March 2017

The original proposal was returned to Panel by Ofgem on 01 March 2017, and Panel subsequently requested that the workgroup consider the issues raised in the Ofgem letter.

On 12 June 2017, the CMA published a follow-up letter stating that "... the provision of an interim telephone service by July 2017, and an Application Programme Interface (API) solution which is expected to launch at the latest in October 2017, subject to the relevant Uniform Network Code permissions being in place. These proposed steps would achieve compliance of the Order." Based on this, the proposer has amended this modification to reflect these solutions.

This enabling modification is proposing to grant the relevant permissions to allow PCWs access to domestic consumer data through amending UNC section V to include a requirement on the PCWs to enter into a confidentiality and service agreements with the Transporters on terms no less onerous than those of TPD Section V5, but including clauses detailing the data and permitted purpose, and clauses to include enforcement of the confidentiality agreement.

The data to be included is: Supply Meter Point Reference Number, supply point address, Meter Post Code, supplier, meter mechanism, network operator, meter capacity, meter serial number, Annual Quantity, Local Distribution Zone, and is to be obtained specifically for the purpose of enabling a change of supplier event in response to a specific request from a consumer.

In order to provide the industry with transparency of the use of this data, an annual report will be provided detailing the PCW market participants who are permitted to access this data.

This modification, once implemented, will grant the necessary permissions for the creation of a commercial service which will provide access to domestic consumer data only for the sole purpose of aiding in faster supplier switching.

Further Clarity Amendments:

- All references to the Transporters' Agency replaced with "CDSP".
- All references to SPAA Schedule 23, Section 6.4 removed as the amended solution does not require a reference to a SPAA Schedule.
- The line "given access with the same conditions and in the same manner as is currently the case for Suppliers" removed from the "Why Change?" section as the CMA have confirmed they will accept alternate solutions, which do not meet this criteria.
- The list of Data Items to be available added to both the "Why Change?" and "Legal Text" sections.
- The section regarding contract requirements moved from the "Solution" section to the "Why Change?" section due to it being guideline principles, rather than the solution itself. Also,

references to the "Transporters" replaced with "CSDP" based on how the amended solution will function.

~~This enabling modification is proposing to grant the relevant permissions to allow PCWs/TPIs access to domestic consumer data through amending UNC section V to include a requirement on the PCWs/TPIs to enter into a confidentiality and service agreements with the Transporters on terms no less onerous than those of TPD Section V5, but including clauses detailing the data and permitted purpose, and clauses to include enforcement of the confidentiality agreement.~~

~~The data to be included is equivalent to the service provided in SPAA Schedule 23, section 6.4 and is to be obtained specifically for the purpose of enabling a change of supplier event in response to a specific request from a consumer.~~

~~The confidentiality and service agreements are not to be included in the UNC solution; however, in order to provide confidence that the arrangements protect the providers of the data the following elements will be included. To ensure compliance of the data in accordance with the Data Protection Act, PCWs/TPIs will be subject to, but not limited, to the following principles which will be solidified in a forthcoming service build:~~

- ~~• Legitimate justification will be required by PCWs/TPIs for accessing this information. This will be subject to confidentiality agreements between PCWs/TPIs and the Gas Transporters, and a contract with the Transporters' Agency for the provision of the service.~~
- ~~• PCWs/TPIs access to data will be subject to organisational validations and conditions, as set out in legal contracts between PCWs/TPIs and the Gas Transporters. The relevant section of the UNC will be amended to include the definition of PCWs/TPIs.~~
 - ~~o PCWs/TPIs are recommended to be part of the Ofgem Confidence Code for faster processing of organisational validations.~~
- ~~• The data provided is confidential information and is therefore only permitted to be accessed by PCWs/TPIs (subject to organisational validations) where consent has been obtained from the relevant consumer, through a clear statement of consent on the PCWs/TPIs website, which will be required to be actively triggered by a consumer.~~
- ~~• Consumer consent and data accessed by PCWs/TPIs will be securely held by PCWs/TPIs for no longer than reasonably required to comply with relevant legislation.~~
- ~~• The Transporter has the right to audit PCWs/TPIs, without notice, to ensure data is being used solely, with consumer consent, for the purposes of facilitating change of supplier activity.~~
- ~~• The Transporter has the right to request PCWs/TPIs to produce evidence of the following information, but are not limited to only this information: consumer consent, data obtained, time periods data was obtained for, switching evidence (if switch took place), and data retention policies.~~
- ~~• Where any suspected misuse comes to the attention of the Transporters, including via a third party or an audit or security investigation, then the Transporter has the right (after appropriate investigation) to cancel provisions of access to data to the PCW/TPI.~~
- ~~• If any of the evidence requested by the Transporter, as specified within the UNC and legal contracts, is not provided within a reasonable timeframe, then the Transporter has the right to immediately cancel provisions of access to data to the PCW/TPI.~~

~~In order to provide the industry with transparency of the use of this data, an annual report will be provided detailing the PCW/TPI market participants who are permitted to access this data.~~

~~This modification, once implemented, will grant the necessary permissions for the creation of a commercial service which will provide access to domestic consumer data only for the sole purpose of aiding in faster supplier switching.~~

6 Impacts and Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects; if so, how?

This requirement may be transitional until the SCR is implemented where PCWs/TPIs may be able to access the data from the new Central Registration Service (CRS).

Consumer Impacts

When investigating the possibility of changing Shipper or Supplier, consumers very often utilise the services of PCWs/TPIs. In order to offer the most efficient service, and to facilitate a more effective switch, the PCWs/TPIs would benefit from access to data held by the Transporters.

PCWs/TPIs are an important means by which consumer engagement can improve, and effective competition can develop in the domestic retail markets. Domestic consumers will be better engaged to fully understand and choose between the range of options available to them through PCWs/TPIs services offered both online and by telephone.

Cross Code Impacts

The requirements as set out by the Report, also apply to electricity. Therefore, code administrative changes will also be made to the Master Registration Agreement (MRA).

EU Code Impacts

None.

Central Systems Impacts

None.

User Pays	
Classification of the modification as User Pays, or not, and the justification for such classification.	No User Pays service would be created or amended by implementation of this modification and therefore, it is not classified as a User Pays Modification.
Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view.	N/A
Proposed charge(s) for application of User Pays charges to Shippers.	N/A
Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve.	N/A

7 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	Positive impact on competition between Gas Suppliers.
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	None
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

Making switching suppliers easier for domestic consumers is likely to increase the number of consumers who engage in the competitive market. Ensuring that core data items are able to be validated at an early stage will increase confidence that switching will be successful and providing access to the parties that are involved in the earliest stages of switching will improve the services that they provide. Increased confidence and activity in the energy markets will make it a more competitive environment for suppliers.

8 Implementation

It is proposed that implementation of this permissions modification be as soon as reasonably practicable after Authority consent is received.

~~It is proposed that implementation of this modification should be no later than February 2017. This is to allow sufficient time to obtain the necessary agreements and provide DES access to authorised PCW/TPI's for the service provided in SPAA Schedule 23, section 6.4. It is recognised the CMA proposal stipulates implementation of a solution for 28 February 2017; however, this will be consulted upon with~~

~~the CMA to ensure prioritisation of Project Nexus delivery, and then the provision of access to data for PCWs/TPIs.~~

9 Legal Text

Text Commentary

The legal text introduces a new permission for the release of protected data. Paragraph TPD V5.5.3 (m) describes the person to whom the data can be released (PCWs and TPIs as defined in UNC GTC1), the circumstances of the release (they have permission from the domestic consumer and have entered into appropriate terms) and specifies the data items allowed to be shared.

TPD V5.5.3 (m) also obligates the CDSP to publish an annual list of persons who have entered into confidentiality and service agreements for this data.

The definitions in UNC GTC1 are consistent with those in the Competition and Markets Authority draft Order on Transporters and CDSP to create these permissions and a corresponding service.

~~The legal text introduces a new permission for the release of protected data. Paragraph TPD V5.5.3(n) describes the person to whom the data can be released (PCWs and TPIs as defined in UNC GTC1), the circumstances of the release (they have permission from the domestic consumer and have entered into appropriate terms) and specifies that the data items are set out in SPAA Schedule 23: Section 6.4.~~

~~TPD V5.5.3(n) also obligates the Transporters' Agency to publish an annual list of persons who have entered into confidentiality and service agreements for this data.~~

~~The definitions in UNC GTC1 are consistent with those in the Competition and Markets Authority draft Order on Transporters and Xoserve Limited to create these permissions and a corresponding service.~~

Text

TRANSPORTATION PRINCIPAL DOCUMENT

SECTION V – GENERAL

(l) to a person appointed.....contained within SPAA; and

Add new sub-paragraph of 5.5.3, as follows:

- (m) The CDSP are authorised to disclose the following data items: Supply Meter Point Reference Number, supply point address, Meter Post Code, supplier, meter mechanism, network operator, meter capacity, meter serial number, Annual Quantity, Local Distribution Zone to a Price Comparison Website where they have received consent from the domestic consumer and where they have entered into confidentiality and service agreements (on terms no less onerous than those in paragraph 5) and reasonable access conditions.
- (i) The CDSP shall, by 31 March each year, produce a report to identify the service recipients who have signed up to the confidentiality and service agreements;
- (ii) **“Price Comparison Website”** (PCW) shall mean an internet-based price comparison service or other internet based TPI that provides comparisons between, and/or access to, personalized quotes for retail energy to domestic customers, and may carry out, on behalf of the domestic customer an instruction to change the domestic customer’s retail energy supplier, tariff or both;
- (iii) **“Third Party Intermediary”** (TPI) shall mean an organisation or individual acting as a third party intermediary between a domestic customer and a retail energy supplier.

~~(m) — to a person appointed.....contained within SPAA; and~~

~~Add new sub-paragraph of 5.5.3, as follows:~~

~~(n) — The Transporters are authorised to disclose such data as is set out within SPAA Schedule 23: Section 6.4 to a Price Comparison Website or Third Party Intermediary where they have received consent from the domestic consumer and where they have entered into confidentiality and service agreements (on terms no less onerous than those in paragraph 5) and reasonable access conditions:~~

~~(i) The Transporters' Agency shall, by 31 March each year, produce a report to identify the service recipients who have signed up to the confidentiality and service agreements;~~

~~(ii) **"Price Comparison Website"** (PCW) shall mean an internet-based price comparison service or other internet based TPI that provides comparisons between, and/or access to, personalized quotes for retail energy to domestic customers, and may carry out, on behalf of the domestic customer an instruction to change the domestic customer's retail energy supplier, tariff or both;~~

~~(iii) **"Third Party Intermediary"** (TPI) shall mean an organisation or individual acting as a third party intermediary between a domestic customer and a retail energy supplier.~~

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

- determine that this Variation Request is material; and
- the modification should be issued to Consultation.