



*Benjamin C. J. and
Chris C. J. J.*

Transco, Shippers and other
interested parties

Your Ref:
Our Ref: Net/Cod/Mod/704
Direct Dial: 020 7901 7052
Email: iain.osborne@ofgem.gov.uk

24 August 2004

Dear Colleague,

Modification proposal 704, 'Requirement for Users to ensure non-domestic Supply Meter Installations are installed and maintained by accredited Meter Asset Managers'

Ofgem has carefully considered the issues raised in Modification proposal 704, 'Requirement for Users to ensure non-domestic Supply Meter Installations are installed and maintained by accredited Meter Asset Managers'. Ofgem has decided to direct Transco to implement the modification, as we believe that it will better facilitate the achievement of the relevant objectives of Transco's network code.

In this letter we explain the background to the modification proposal and outline the reasons for making our decision.

Background to the proposal

Historically, meter works including the installation and maintenance of the meter were carried out by the relevant gas transporter, which in the vast majority of cases is Transco. However, metering is a contestable activity and both consumers and suppliers have increasingly been utilising their right to appoint alternative meter providers in order to achieve cost savings or improved standards of service. Given the potential benefits to consumers, Ofgem has encouraged the development of competition in this area.

In August 2000 Ofgem initiated the Review of Gas Metering Arrangements (RGMA) in order to address the remaining non-price barriers that were considered to be inhibiting the development of competition in gas metering services. Key amongst these was the integrated nature of Transco's monopoly transportation and metering businesses. The RGMA developed business processes and data flows (as specified in the RGMA baseline) which will underpin competition in metering and reflect Transco's separation of its transportation and metering business arms. The development of industry standards for business processes and data flows will allow market participants to communicate effectively in the evolving metering market. The RGMA regime came into effect on 12 July 2004.

In January 2002, the Technical Issues Sub-Group of the RGMA was established and tasked to consider the RGMA baseline from a technical perspective, rather than the largely commercial

perspective that had driven its development to that point. This group confirmed that the baseline conforms to all appropriate technical and health & safety requirements. It also put forward proposals on how market participants would be able to conform to the roles and responsibilities expected of them in a changing competitive environment. It was felt that given the effective separation of roles and responsibilities between metering and gas transportation activities, the provision of gas meter installations under the RGMA may require the introduction of additional controls and procedures to ensure the provision of a safe and secure supply of gas to consumers and that the requirements of legislation continue to be met. To this end, the group developed a Code of Practice for Meter Asset Managers ("MAMCoP").

The effective management of gas meter assets requires the awareness of, and conformance with, a considerable number of regulatory requirements and industry standards including those required by the Gas Act, Gas Safety (Installation and Use) Regulations 1998 ("GSIU"), CORGI, Ofgem and the Institution of Gas Engineers and Managers ("IGEM"). All of these requirements were set out in the MAMCoP to provide new and existing Meter Asset Managers ("MAMs"), with a route-map to conformance with those requirements and industry standards. Its aim was to promote the whole-life management of Supply Meter Installations as its scope, from design through to installation and eventually removal.

In principle, the MAMCoP would apply to all MAMs undertaking works for gas suppliers installing meters on networks and any network downstream of a connection to the National Transmission System. This MAMCoP expanded on the requirements laid down in the Codes of Practice ("CoPs") for Ofgem Approved Meter Installers, ("OAMI"), COP/1a, COP/1b and COP/1c, by specifying the requirements for all stages of the meter installation's life.

In June 2004 Ofgem issued a consultation document¹ and accompanying notices pursuant to section 23 of the Gas Act 1986 proposing various modifications to licences of gas suppliers, gas shippers and gas transporters licences, to support the implementation of the RGMA baseline. Amongst the final modifications is a requirement that domestic suppliers and gas transporters to provide a meter to domestic customers through a MAM. A Meter Asset Manager was defined as a person approved as having the relevant expertise, which included in particular a person who was compliant with MAMCoP.

However, given the existing licence arrangements, no proposals were made to impose an equivalent licence obligation on suppliers and gas transporters in relation to non-domestic, i.e. industrial and commercial (I&C), customers.

The proposal

In order to address this issue in relation to I&C customers, on 11 June 2004, Transco proposed Modification Proposal 701. By this proposal, Transco proposed to include in the Network Code transitional provisions which sought to impose upon I&C shippers the requirement that they should only contract with those suppliers who in turn contract with a metering agent that is registered as compliant with the MAMCoP.

The legal text accompanying the proposal referred to potential remedial action being prompted not only where Transco becomes aware that a meter has been installed by a party other than an accredited MAM, but where at any time subsequently it is not been maintained by such a MAM.

¹ Competition in the Provision of Gas Metering Services: Licence Amendments Decision Document & Section 23 Notices June 2004

Ofgem considers that this may place undue restriction on the commercial decisions of I&C suppliers, which may prefer to contract with service providers on a job by job basis, possibly carrying out site visits for periodic maintenance in line with the manufacturer's recommendations, rather than having a standing maintenance contract for each meter.

Also modification 701 did not appear to specifically support Transco's view that compliance with the MAMCOP will help underpin procedures which ensure that appropriate GT authorisations are sought by third parties when setting and sealing the pressure regulator and that MAMs will ensure that installations comply with the MAMCOP.

On consideration of the proposal Ofgem concluded that as drafted, although there were benefits in approving the proposal these benefits were outweighed by the negative effects and therefore decided not to consent to the modification.

Following the Authority's determination not to direct the implementation of Modification Proposal 701, Transco has proposed now Modification Proposal 704.

The purpose of modification proposal 704 is to incentivise Users to only contract with suppliers which use accredited Meter Asset Managers to carry out metering work. The proposal requires the User to secure that:-

- Appropriate approval, appraisal and authorization will be obtained from Transco to the extent required by Section 6 of the MAMCoP and or
- The Supply Meter Point is maintained by a MAM appointed by the supplier or the User.

By ensuring such persons are employed in the design and installation of Supply Meter Installations, the User, and hence Transco, would be assured that certain standards and design criteria are used, which should in turn ensure that such installations are compatible with the design assumptions adopted by Transco.

Transco recognises that this is only a temporary solution and expects more appropriate proposals to be developed. Therefore Transco has proposed that the modification should only be in place for a two year period to allow time for a more enduring solution to be developed and implemented.

Respondents' views

Twelve representations were received regarding modification proposal 704. Five were supportive, one agreed with the modification in principle and 6 respondents felt that the modification was inappropriate and should be rejected.

The respondents raised the following issues outlined below:

Timing issues

Some respondents felt that the perceived risks that Transco are trying to mitigate have existed for some time and have been present since the liberalisation of the metering market. Also, the view was expressed that those who regularly operate in the metering market are fully aware of their statutory obligations with regards to health and safety and therefore feel that the introduction of this modification is an "...extension of regulation by Ofgem", at a time when metering obligations are being removed from Transco's Network Code.

Respondents supporting the modification believe that this modification should be implemented as it is the most appropriate means by which to ensure that all installations are undertaken by a MAMCOP accredited MAM. One of these respondents goes on further to suggest that "their preferred long-term solution would be to see an amendment to the suppliers' licence obligation to make it apply to both Domestic and I&C".

Transitional provisions

Concern was voiced from 3 of the respondents as to the rationale of having a two year transitional period, which suggested to some respondents that legislation, to remedy the situation could be up to two years away. It is felt that the timeframe should be shorter. In support of the modification one respondent felt that the imposed time limit of 24 months was appropriate as "this provides the necessary impetus to work towards a more appropriate and robust long term solution."

Safety

Most respondents remain unconvinced that this modification is necessary or that current levels of risk would rise to such a level, if the modification were not made, in such a time that a solution could not be sought through the licence or through legislation. However the Health and Safety Executive ("HSE"), in its representation to this modification proposal notes that "the Risk assessment panel concluded on balance that risks had increased under RGMA, and the purpose of this recommendation [704] was to return the risk level to that under the baseline case. With this aim in mind, we [HSE] believe it important for the actions concerned to be implemented in full".

Compliance with MAMCOP

Most of the respondents who feel this mod should be rejected are signatories to the I&C Code of Practice ("ICoP") and have recently proposed a new wording to the ICoP which now requires all signatories to engage only with MAMs that are MAMCoP accredited. The new wording in the ICoP came into effect on 1 August 2004.

Introduction of Network Code Obligations

There were strong feelings from 3 of the respondents against a new obligation to be placed in the Network Code at a time when metering obligations are being removed. These respondents felt that this is not the best way to address the issue.

Transco's view

Timing Issues

Transco had formerly expected that the Suppliers Licence would be amended to mandate all MAMs to sign on to the MAMCoP for all market categories. This was its assumption at the time the MAMCoP was being developed under the auspice of the Ofgem Technical Standards Implementation Group ("TISC"). This assumption was reinforced by the IGEM risk assessment recently published. As it has transpired that this is not the case, Transco feels that the approval of this modification is the best course of action at this time.

Transitional provisions

Transco reiterated its preference for an over-arching requirement, placed either within the Gas Suppliers Licence or appropriate gas safety legislation, to require all persons commissioning meter related work to use accredited MAMs. Transco supports the key conclusion of the IGEN risk assessment, carried out to assess the impact of metering competition on the industry, that being the need for compliance with MAMCoP to be mandatory for all parties and for this to be established in law. However, in the absence of such legislation, Transco believes that modification of the Network Code in line with the proposal is the minimum requirement.

In anticipation of the requirement to use accredited MAMs being extended to suppliers undertaking work at both domestic and non-domestic Supply Points and reflected in relevant legislation, Transco has prepared transitional legal drafting with an expiry date of 24 months following implementation of this Modification Proposal. Transco anticipates prompt resolution by the industry of this matter leading to a longer term sustainable solution and should that occur within the two-year period, an appropriate modification would be proposed to reflect the solution.

Safety

Transco's response is that the independent IGEN risk assessment concluded that "on balance the risks had increased as a result of RGMA" and that action needed to be urgently taken to address an increase in risk including making the MAM CoP mandatory in law. This has been done for domestic meter installations. This Modification proposal seeks to address this issue in the I&C market until appropriate licence or safety legislation changes can be introduced

Compliance with MAMCoP

Transco is encouraged to note that the majority of the respondents have indicated that they will only be using MAMCoP accredited MAMs to undertake their I&C meter works either through a statement in their response or assurances that they will comply with the I&C CoP. Several respondents also stated that they believed that the mandatory requirements in the Network Code to use accredited MAMs, represented an increased risk when compared with their voluntary obligations under the I&C CoP, which re-enforces Transco's concerns about the effectiveness of voluntary arrangements.

If suppliers use accredited MAMs for all their meter works as the majority of respondents have indicated, then the shipper will be complying with Section (a)(1) & (2) of the proposed legal text and the remedies prescribed in this Modification Proposal would not apply.

Introduction of Network Code Obligations

Transco's view is that there appears to be some misunderstanding of the nature of the revisions to be made to the Network Code as a consequence of RGMA implementation. The relevant Code changes (Modification Proposal 0672) were associated with removing Transco's obligations (Principal Document Section M2.2) which were concerned with Transco securing on behalf of Users the provision, installation and maintenance of Supply Meter Installations. There are no plans to significantly change or remove the fundamental Network Code obligations incumbent on Users (Section M2.1) for providing, installing and maintaining Supply Meter Installations. Section M2.1 reflects significant obligations on Users requiring them to ensure (for example, it is assumed by way of their suppliers) the suitability of the Supply Meter Installation. In conclusion, the principal metering obligations on shippers were not removed from the Network Code as a result of the RGMA changes.

Ofgem's view

A key feature of any competitive market is that participants may enter (and exit) with relative ease. In this respect Ofgem expects the gas metering market to be no exception. However, it is clear that efficiencies of a competitive market must not be gained at the expense of the safety of consumers. Whilst any participant entering the market is expected, with due diligence, be fully aware of and compliant with any safety requirements, the MAMCoP and associated accreditation scheme may provide some additional assurance of this.

In its rejection letter for modification proposal 701 Ofgem stated that "...as drafted, implementation of this [701] modification would have negative effects that outweigh [the] benefits". In reaching this view, Ofgem noted in particular that:-

- the accompanying legal text for modification 701 referred to potential remedial action being prompted not only where Transco becomes aware that a meter has been installed by a party other than an accredited MAM, but where at any time subsequently it has not been maintained by such a MAM. Ofgem considered that this may place undue restriction on the commercial decisions of I&C suppliers, which may prefer to contract with service providers on a job by job basis, possibly carrying out site visits for periodic maintenance in line with the manufacturer's recommendations, rather than having a standing maintenance contract for each meter;
- the modification as drafted did not appear to specifically support Transco's view that compliance with the MAMCOP would help underpin procedures which ensure that appropriate GT authorisations are sought by third parties when setting and sealing the pressure regulator and that MAMs would ensure that installations comply with the MAMCoP.

Transco has submitted modification 704 in response to the Ofgem letter of 6 July 2004, modifying the legal text such that only the MAM contracted to the supplier is MAMCoP accredited and to ensure that the text underpins the GT's authorisation process.

Ofgem acknowledges that a number of participants have suggested that compliance with MAMCoP could be achieved by individual undertakings and/or ICoP. Although this is welcome, such arrangements are in themselves voluntary and it is not clear the extent to which such undertakings could be enforced. Ofgem notes the view of some respondents that this modification is reintroducing metering obligations within the Network Code at a time when certain obligations in relation to metering have been removed. On this point Ofgem notes Transco's response and agrees that this modification is consistent with existing, ongoing provision within Section M of the Network Code at this time.

Ofgem has previously considered the possibility of introducing a licence obligation on I&C suppliers. Ofgem considers that this would be difficult considering the nature of I&C metering market, requiring significant additional regulation and would be a disproportionate response to the transitional problem addressed by this proposal.

Ofgem consider that the most appropriate long-term solution is through gas safety legislation but believe that the proposed Network Code modification provides a pragmatic transitional solution and therefore welcomes the "sunset" provision in the proposal.

The purpose of this modification is to incentivise the I&C User to only contract with suppliers contracted with MAMCoP accredited agents. Transco has a requirement to ensure it is able to

discharge its legislative obligations safely and efficiently. In consideration of this Transco needs to ensure that the design and pressures associated with the meter asset are of the appropriate safety standards.

The Proposal sets out steps that would be taken by Transco where the design criteria of the transportation system and the metering installation are not compatible which would involve cost for the User and cost and inconvenience for the customer. Implementation of this modification could ensure such remedial action is less likely and hence should ensure that Transco is able to conduct its business in a more efficient and effective way than would otherwise be the case. Ofgem therefore considers that this modification better facilitates achievement of the relevant objectives in so far as efficient and economic operation of the pipeline.

Having satisfied itself that the modification may further the relevant objectives of the network code, Ofgem has also had regard to its principle objective and general statutory duties, as set out in section 4AA of the Gas Act 2004. Pertinent to this proposal is Section 4AA (5) (b), which requires Ofgem to carry out its functions in a manner best calculated to protect the public from dangers arising from the conveyance of gas through pipes. Ofgem considers that this modification may offer further safeguards to the safety of consumers insofar as a key feature of the MAMCoP is to ensure that meter installers aware of their responsibilities to cooperate with the GT in order to deliver gas to consumers within safe working pressures.

Ofgem's decision

For the reasons outlined above, Ofgem has decided to direct Transco to implement this modification as we consider that it would better facilitates the achievement of the relevant objectives of the Transco Network Code, as outlined under Amended Standard Condition 9 of its GT licence, in particular the efficient and economic operation by the licensee of its pipeline system.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Iain Osborne', with a stylized flourish at the end.

Iain Osborne
Director, Consumer Markets