

Representation - Draft Modification Report 0593

Provision of access to Domestic Consumer data for Price Comparison Websites and Third Party Intermediaries

Responses invited by: **5pm on 09 February 2017**

To: enquiries@gasgovernance.co.uk

Representative:	Robert Wigginton
Organisation:	Wales & West Utilities Ltd (WWU)
Date of Representation:	9 th February 2017
Support or oppose implementation?	Support
Relevant Objective:	d) Positive

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

This modification seeks to enable to the provision of access to price comparison websites (PCWs) and third party intermediaries (TPIs) through providing access to Data Enquiry. WWU believes this enabling modification achieves the aim of the Competition and Markets Authority (CMA) order, namely: *'gas transporters to give PCWs (and other TPIs providing similar services) access upon request to the ECOES and SCOGES databases respectively on reasonable terms and subject to satisfaction of reasonable access conditions'*.

WWU is mindful that the provision granted will enable a manual comparison of entered details against those held by the Transporters. It is possible that the absence of an automated solution may limit the extent to which switching is facilitated by this service.

WWU therefore suggest that a sample of PCWs and TPIs should be engaged, selecting both those who have opted into any resulting service and those who have abstained. The purpose of this engagement is to identify if the access provided addresses the concerns raised by the CMA.

Implementation: *What lead-time do you wish to see prior to implementation and why?*

Gas Transporters, who are party to the UNC are required to use their best endeavours to ensure that a modification proposal concerning any necessary amendments to the UNC to reflect the obligation in Article 4.1 and its associated date for implementation in Article 1.2 is approved and implemented as soon as reasonably practicable after the date of the CMA Order.

Therefore no lead time to implementation of this Modification would be required; however there may be lead time in providing the access being provided. This lead time would

need to be sufficient to agree the confidentiality and service requirements of the proposed solution.

Impacts and Costs: *What analysis, development and ongoing costs would you face?*

WWU would incur no direct costs from this order and would expect the users of the service to pay for any directly attributable costs in the spirit of the FGO model.

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution?*

Yes

Modification Panel Members have requested that the following questions are addressed: *Remove Section if no questions*

Q1: To inform Panel's consideration of self-governance, views are requested as to whether respondents believe that releasing these data items represents a material impact on competition between, or commercial arrangements for, Shippers or Transporters. Please provide evidence to support your response.

The Self Governance Criteria will assess a proposal to ensure that, if implemented, it is unlikely to discriminate between different classes of UNC parties and unlikely to have a material effect on;

- existing or future gas customers;*
- competition*
- operation of the pipeline system(s)*
- matters relating to sustainable development, safety or security of supply, or the management of the market or network emergencies;*
- the UNC governance procedures or Modification Procedures.*

WWU believes that a modification that solely considers issue of data to a third party should be contractual and under normal business rules, therefore would ordinarily be self-governance.

In this instance the provision of information to PCWs and TPIs may facilitate further switching therefore can be deemed to have a potentially material impact on competition.

Therefore whilst only an enabling modification, the Self Governance Criteria appear not to be met given that the CMA deem this activity should facilitate such switching activity.

Are there any errors or omissions in this Modification Report that you think should be taken into account? *Include details of any impacts/costs to your organisation that are directly related to this.*

None

Please provide below any additional analysis or information to support your representation

Throughout engagement relating to this modification concern has been raised that the provision of information may be a potential breach of the Data Protection Act. This concern appears centred on the argument that Xoserve would be unable to demonstrate that the information obtained would be 'specifically for the purpose of enabling a change of supplier event in response to a specific request from a consumer'.

The seventh principle of the Data Protection Act requires:

"you must have appropriate security to prevent the personal data you hold being accidentally or deliberately compromised. In particular, you will need to:

- design and organise your security to fit the nature of the personal data you hold and the harm that may result from a security breach;*
- be clear about who in your organisation is responsible for ensuring information security;*
- make sure you have the right physical and technical security, backed up by robust policies and procedures and reliable, well-trained staff; and*
- be ready to respond to any breach of security swiftly and effectively."*

It is therefore key that any subsequent contract entered into with TPIs gives due consideration to the harm that may result from such a security breach and that the controls in place are therefore appropriate. The measures set out in the detailed Modification report appear a good starting point to this consideration.