

UNC Variation Request

0593

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

Date: 20 June 2017

The Proposer, Shanna Key, requests a variation to this modification, pursuant to UNC Modification Rules Section 6.5.1(c) of the UNC.

Reason for Variation

On 01 March 2017, Ofgem sent back the Final Modification Report to address concerns raised in the original consultation. On 16 March 2017, Panel referred the report to Workgroup 0593 to consider the points raised in Ofgem's letter.

On 12 June, the CMA has published a letter advising that an API solution, with an interim telephone service, would achieve the intent of the Order originally issued in December 2016. Therefore, modification 0593 has been amended to reflect this view.

Nature of Variation

An amended Solution and the corresponding legal text has been provided, as well as further clarity being added in the form of the below amendments.

In consideration of the extent of the changes to the Solution, the Proposer recommends that Panel should consider this to be a material Variation Request requiring further consultation.

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Amended 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.

Solution (complete replacement section)

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.

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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.

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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.

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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.

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Why Change? (complete replacement section)

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

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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.
 - o 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.

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- Where any suspected misuse comes to the attention of the CSDP, 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.

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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.

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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.

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Legal Text (complete replacement section)

Text Commentary

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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.

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TPD V5.5.3 (m) also obligates the CSDP 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 CSDP to create these permissions and a corresponding service.

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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 CSDP 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

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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.

- A link to the newest CMA letter should be added to the "Reference Documents" section:

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>

- The implementation date has been amended to reflect the CMA letter:

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

Proposer's Representative

Shanna Key

Proposer

Shanna Key

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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.

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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.