

Project Manager
Energy Market Investigation
Competition and Markets Authority
Victoria House
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07 April 2016

Dear CMA,

ElectraLink's response to the CMA's provisional decision on remedies

We welcome the opportunity to provide the Competition and Markets Authority (CMA) with comments on the provisional decision on remedies. Our response is both supportive and mindful of the recommendations, founded on the CMA's assessments of provisional Adverse Effects on Competition (AECs) and the consequent detriment affecting energy customers in the GB energy market.

ElectraLink is responding to the CMA in its capacity as a provider of code administration services and the operator of the Data Transfer Service (DTS).

ElectraLink has grown over the past 10 years a commercial code administration business, winning a number of contracts all under competitive procurement. ElectraLink is currently the Code Administrator for the Supply Point Administration Agreement (SPAA), the Distribution Connection and Use of System Agreement (DCUSA) and the Smart Metering Installation Code of Practice (SMICoP). Accordingly, Part A of our response will focus on the remedies put forward by the CMA that relate to code governance and code administration.

Due to our role as the operator of the industry DTS, Part B of our response will focus on the remedies that relate to data in the electricity and gas markets. The DTS is a secure, low-cost service which provides all market participants in electricity and gas with a common interface for sending and receiving data relating to change of supplier, settlement and other common business processes. ElectraLink has been providing the DTS to the UK energy industry for the past 18 years, a period which has seen the volume of data exchanged between parties expand 16-fold (see Figure 1), effectively discharging a licence condition of its Distribution Network Operator (DNO) shareholders.

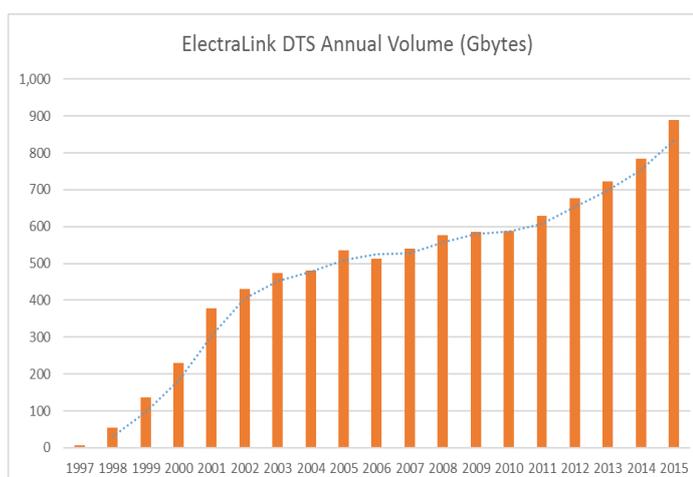


Figure 1. Annual volume of data received over the DTS

The DTS is now connected to 246 market participants and from its origins as a service to support competition in the retail electricity market, it has evolved into a dual fuel data transfer and analysis service regulated by



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Ofgem, governed by industry and processing data defined by the Master Registration Agreement (MRA), the Balancing and Settlement Code (BSC) and the SPAA.

Part A: CMA remedies that relate to code governance and code administration

ElectraLink notes the CMA recommendations for the introduction of a number of measures which will impact code governance and code administration. The measures seek to reset and refresh arrangements, whilst clarifying the responsibility and roles of DECC, Ofgem and Code Administrators to ensure that future regulatory and policy decisions are robust and efficiently delivered, driven by a focus on the concern for the interest of current and future customers. Through our interaction with existing and new entrants across the energy sector, ElectraLink believes that the recommended reforms will lead to welcomed consistency, consolidation and cost savings within the code governance marketplace.

We also acknowledge that Ofgem will be taking a central role in leading the implementation of the proposed remedies. We look forward to working with Ofgem to understand the detail behind the measures in order to develop and introduce the necessary changes to both industry codes and Code Administrator activities.

Ofgem's shifting focus to oversee strategic code development

ElectraLink has sympathy for new entrants to the UK energy market who face ongoing challenges in navigating across the range of complex licences, standards of conduct, legislation and industry codes. Codes for example, differ by nature, varying in size, complexity and technicality due to the array of industry processes which they govern. This means that finding a balance of accessibility for the growing number of market participants is increasingly difficult. This has arguably been exacerbated through the absence of a clear and consistent approach to code development. Understandably, a number of industry activities in recent years have been instigated to reduce the complexity and fragmentation within code governance and the larger regulatory framework. This includes Ofgem's Code Governance Review, the Cabinet Office's 'Cutting Red Tape: Review of energy sector' programme and the CMA's investigation.

ElectraLink considers such efforts as being extremely valuable, not least through their attempts to deliver the best outcome for customers by ensuring the market remains open and competitive. We encourage the outputs of the CMA's investigation to be consolidated with ongoing activities, rather than a piecemeal approach being applied. For that reason, we welcome the CMA's measures which place Ofgem at the heart of the new regulatory framework.

ElectraLink believes that the recommendation for Ofgem to publish a strategic direction, which sets out expectations for the development of codes, will enable industry parties to make informed decisions on the prioritisation of resourcing over the coming years. In addition, the CMA's recommendations for Ofgem to adopt an overarching role in establishing code specific work plans will help shift away from how Code Administrators and code governance panels often operate independently (such as in determining modification implementation dates where cross code impacts are not identified). ElectraLink, alongside respective code panels, already undertakes a forward looking exercise to determine wider market activities and reform projects as part of the annual development of code budgets. ElectraLink therefore looks forward to building on this approach with Ofgem, other Code Administrators and code panels to put the necessary changes in place.

The CMA has further recommended that Ofgem establishes and administers a consultative board for the purpose of bringing stakeholders together to discuss and address cross cutting issues and strategically important modifications. ElectraLink is extremely supportive of this remedy and believes that a mixture of Code Administrators, Ofgem and industry parties from each code will ensure a holistic approach that can be applied to code development going forward. We stress however, the importance of ensuring the consultative



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board has a fair representation of smaller and new market participants, which could be achieved through the appointment of a champion to coordinate views from market participants who experience greater pressures in engaging, directing and managing industry change.

The CMA has proposed a remedy for granting Ofgem the ability to provide input directly into a specific aspect of the modification processes through initiating or prioritising code modifications. We understand this will either be in the form of formal intervention by Ofgem or directions to Code Administrators and code panels in order to ensure the timely and effective delivery of Ofgem's strategic direction. Regardless of the route taken, Code Administrators and code panels will be required to develop an end to end project management plan for Ofgem and regularly report progress to the consultative board. We feel this remedy will improve the efficiency of the development and implementation of code changes, for example through early Ofgem engagement. This remedy will also reduce the likelihood of strategically important code modifications not meeting the Authority's requirements and being sent back for further development or analysis of the cost/benefits of the solution, which is ultimately at the cost of customers.

The expanded role of Code Administrators

In addition to the remedies put forward in respect to Ofgem's changing strategic focus of code development, ElectraLink notes the CMA's provisional decisions concerning the future and expanded role of Code Administrators. It is worth highlighting, as a Code Administrator, that ElectraLink is increasingly being relied upon to drive industry change on behalf of industry parties and to provide technical expertise within the codes we administer. ElectraLink therefore believes that Code Administrators are well placed to support Ofgem in progressively taking on more of the day-to-day management of modification proposals as put forward.

We would like to highlight that some steps have already been taken by ElectraLink and fellow Code Administrators to manage cross cutting industry changes. A joint working practice, which underpins Principle 13¹ of the Code Administration Code of Practice (CACoP), has recently been developed and implemented to support Code Administrators in working together to oversee joint code modifications, promoting efficiencies, on behalf of the industry. That being said, we believe more can be done to further support industry parties at a time of unprecedented market change. This also aligns to the direction of travel put forward by the CMA in which Code Administrators are recommended to progressively take on a 'Code Manager' role.

ElectraLink further notes the proposal by the CMA for Ofgem to modify licence conditions on Code Administrators to introduce the ability for Code Administrators to initiate and prioritise modification proposals that in its view are necessary for the delivery of the strategic direction of code development. We believe this acts as a natural extension to the role ElectraLink already plays in its administration of a number of central industry codes where industry parties often look to our expertise in modification processes to draft modifications on the industry's behalf.

The extension of Code Administrator powers, alongside the expectation for Code Administrators to project manage all code modifications, will enable Code Administrators to offer a greater level of support to industry parties and Ofgem. This would be through ensuring that a risk based approach to all modifications is taken and a consistent approach to project management is adopted. The expanded role will also permit parties to focus their operational expertise to inform the development of modification solutions, improving the efficiency and effectiveness of governance arrangements. Accordingly, we look forward to working with Ofgem in order to understand the supporting details of the provisional measure.

¹ Principle 13: Code Administrators will ensure cross Code coordination to progress changes efficiently where modifications impact multiple Code



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Code administration services as a licensable activity

The CMA has further indicated that DECC is to make legislative provision for code administration and delivery service activities to be licenced by Ofgem. We understand that this will re-direct the lines of accountability of Code Administrators from industry to Ofgem. Although ElectraLink fully supports the thrust of this measure i.e. to help drive strategic change for the benefit of customers and to open code administration activities to competition, we believe careful consideration is needed when introducing the remedy.

Firstly, we consider that Ofgem should give careful thought into the scale and scope of the incentives required to deliver its strategic direction effectively. Secondly, we note that not all organisations who are Code Administrators operate as commercial entities. We believe consideration is needed in understanding how licencing would work across current code funding arrangements, specifically not-for-profit entities where sanctions imposed under a licence may not necessarily be compatible with their business model. Lastly, not all Code Administrators have contractual arrangements in place with industry parties for the administration and service delivery of industry codes. For this reason, ElectraLink would welcome the opportunity to work with Ofgem to ascertain what the new compliance requirements brought about through licensing would practically mean for the current contractual arrangements in place with code parties.

Part B: CMA remedies that relate to data in the electricity and gas markets

In addition to the provisional remedies in the areas of code administration and code governance, the CMA has put forward a number of wide ranging measures that relate to data in the electricity and gas markets, our thoughts on these areas are outlined below.

Movement to mandatory half hourly settlement

ElectraLink notes the CMA recommendation for Ofgem to undertake a full cost benefit analysis of the movement to mandatory half hourly settlement for domestic and small and medium sized enterprise (SME) customers. ElectraLink fully supports this reform of the settlement system and would welcome the opportunity to assist Ofgem in understanding the impact of this change on existing processes and systems, including the DTS.

The DTS is the mechanism by which data flows are sent between different industry parties within the current settlement process for the electricity market. The adoption of mandatory half hourly settlement would be a step change in terms of both the volume of this data and the settlement timetable. For example, the implementation of mandatory half hourly settlement for the entire domestic market could result in a 250-fold increase in the settlement output data from ELEXON, assuming the existing business processes are used. Careful thought will need to be given to how this data is to be managed, transferred and used. Similarly, we also understand that the introduction of mandatory half hourly settlement will dramatically shorten the settlement timetable as it will no longer be necessary to wait for 14 months before bills can be settled.

ElectraLink has been working with Elexon and its other DTS customers to ensure that the service is ready for the movement to half hourly settlement. In 2015, we completed a migration of the DTS to a cloud-based infrastructure which enables the quick and cost-effective scaling of the service to support step-change volume growth in DTS traffic. This new architecture is enabling the DTS to scale rapidly over the forthcoming year to provide additional capacity in support of P272². ElectraLink will work with Ofgem to ensure the low cost of providing additional data transfer capacity over the DTS, to support the growth in data volumes resulting from half hourly settlement, is correctly captured in the cost benefit analysis.

² P272 - Mandatory Half Hourly Settlement for Profile Classes 5-8





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Provision of customer data through a cloud service

The CMA has recommended that Ofgem create, operate and maintain a secure cloud database to hold Domestic and Microbusiness customer data to enable visibility of those customers who are disengaged from the market and to manage access to that data by rival suppliers. We see the adoption of this technology as an efficient and cost effective way of providing access to data whilst opening new channels within the market to promote competition to the benefit of customers.

Under the terms of the DTS Agreement (DTSA), the industry has granted ElectraLink permission to store up to five years of DTS data. This data base of DTS messages is now in excess of 3 terabytes, containing more than 122 million data flows. This provides the foundation for ElectraLink to deliver analytical services to energy market participants, on both a regulated and commercial basis, to improve the efficiency and operation of the energy market. These services are governed by strict provisions in the DTSA relating to the appropriate use of data and the protection of personal and commercial confidentiality. In 2016, ElectraLink is migrating this database to a cloud infrastructure, building on our experience of the DTS migration, with controlled access to the recipients of ElectraLink's data analysis services. ElectraLink also managed the procurement and implementation of the Theft Risk Assessment Service (TRAS) on behalf of SPAA and DCUSA Ltd. TRAS is the first major, operational, dual fuel IT service in the United Kingdom (UK) and includes the secure provision and analysis of energy consumption data for all electricity and gas consumers in the UK to help the industry tackle theft of energy.

ElectraLink would therefore welcome the opportunity to share with Ofgem our experience of operating secure cloud based solutions and data analysis services on behalf of multiple industry parties. In particular, ElectraLink's detailed understanding of centralised and secure data services could provide valuable insight to Ofgem into the security and appropriateness of access to the data sets proposed by the CMA to be made available to market participants.

Data transparency & Price Comparison Websites

In addition to a cloud service to manage the secure access to disengaged customer data, the CMA has given orders in respect to granting Price Comparison Websites (PCWs) with access to the existing pre-registration enquiry services, ECOES and SCOGES.

We fully support the intention to improve the operation of the energy market through greater sharing of data, subject to appropriate data protection controls being in place. This increase in data transparency is aligned with ElectraLink's ongoing engagement with the customers of the DTS to provide them, and other market participants e.g. the Citizens Advice Bureau, with data analysis to improve the operation of the energy market and encourage greater customer engagement. We would however, encourage consideration by the CMA into where further benefits to customers could be introduced through access to ECOES and SCOGES being granted to appropriate parties beyond the PWCs.

Debt Assignment Protocol

The final aspect of our response is in relation to the CMA recommendation for Ofgem to ensure that changes to the Debt Assignment Protocol (DAP) under gas and electricity governance (which are currently being developed by the industry) are implemented by the end of 2016. We support this drive by the CMA to enhance prepayment customers' ability and incentives to both engage with the market and to switch to other suppliers.



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It is our understanding that there are a number of issues with the current transfer of customer data to support the DAP which have the potential to introduce delays in switching from a customer perspective. Accordingly, we would welcome the opportunity to discuss the transfer of data within the process with Ofgem and whether the current mechanism (via e-mail) is most appropriate or whether migration to a more structured transfer mechanism, such as over the DTS, would lead to further improvements. The use of the DTS to support the DAP process has the additional benefit of providing validation on file formats, reducing instances where suppliers can reject flows due to inconsistencies and improving the efficiency of suppliers receiving and managing the information. It would also allow centralised reporting on the process that would give increased visibility and potentially reduce the reporting requirements on suppliers.

We would be pleased to engage with the CMA to discuss our response in greater detail. Should the CMA require any further information please in the first instance contact Rachael Mottram, Governance Services Consultant at rachael.mottram@electralink.co.uk.

Yours sincerely,

Stuart Lacey
Chief Executive Officer, ElectraLink



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