

Final Modification Report	At what stage is this document in the process?
<h1>iGT095:</h1> <h2>Provision of access to Domestic Consumer data for Price Comparison Websites and Third Party Intermediaries</h2>	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="border: 1px solid #ccc; padding: 5px; margin-bottom: 5px; width: 100%;">01 Modification</div> <div style="border: 1px solid #ccc; padding: 5px; margin-bottom: 5px; width: 100%;">02 Workgroup Report</div> <div style="border: 1px solid #ccc; padding: 5px; margin-bottom: 5px; width: 100%;">03 Draft Modification Report</div> <div style="border: 1px solid #ccc; padding: 5px; margin-bottom: 5px; width: 100%; background-color: #f4a460;">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 the IGT 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>Panel consideration is due on 23 February 2017 The Panel recommends implementation <i>(or)</i></p>
	<p>The Panel does not recommend implementation</p>
	<p>High Impact:</p>
	<p>Medium Impact:</p>
	<p>Low Impact: Transporters Agency</p>

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Timeline			
Modification timetable:			
Modification Proposal submitted to The Authority for Urgent Status	15 February		
The Authority's decision on Urgent Status	17 February		
Draft Modification Report issued to Consultation	20 February		
Extraordinary Panel Meeting	23 February		
Submission of Modification to the Authority	23 February		
The Authority's Decision	27 February		

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) in order to facilitate the switching process.

Why

The Competition and Market Authority (CMA) Energy Market Investigation proposed a requirement for Gas 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 Gas Transporter. The release of this data is strictly limited to these purposes only. Some of the data that will be provided to the PCWs/TPIs is provided to the iGT under this code by the Shippers and iGTs are prohibited from sharing this data with other parties by the provisions of this code. This modification is required in order to provide this data to PCWs/TPIs.

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 Independent Gas Transporter Uniform Network Code (iGT UNC) with the data items available to match those in SPAA Schedule 23, section 6.4.

2 Governance

Justification for Urgency, Self-Governance or Fast Track Self-Governance

This modification does not qualify for self-governance. Although it is simply allowing the release of data (subject to pre-defined conditions) to PCWs/TPIs, a subsequent increase in consumers seeking to switch Supplier could have a material impact on parties to the iGT UNC, consumers and competition.

Requested Next Steps

This modification should:

- Be sent to the Authority as an Urgent Status Modification on the basis that the Large Transporters Agent intends to give access to PCWs/TPIs as from the 28th February 2017. When providing such access, they will not be able to restrict the access to exclude iGT Supply Points and hence they require the iGT UNC to be amended to allow such access by the 28th February 2017. It is not considered that this would be possible if the standard iGT UNC Modification Rules were followed, hence the reason for requesting Urgent status.

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/TPIs to be granted access to data, on the same level as suppliers, 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/TPIs is strictly limited to these purposes only.

The CMA has placed an 'order' on Xoserve and 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 for IGTs to release the above data to 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 iGT UNC 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-marketinvestigation.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 both the Uniform Network Code (UNC) and Independent Gas Transporter 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

The CMA Draft Energy Market Investigation (ECOES/DES) Order 2016 has been published and can be accessed via the following link;

<https://assets.publishing.service.gov.uk/media/5805df8e40f0b64fc1000004/energy-market-ECOES-DES-order-for-consultation.pdf>

Knowledge/Skills

No specific knowledge or skills required to consider this modification

5 Solution

This enabling modification proposes to grant the relevant permissions to allow PCWs/TPIs access to domestic consumer data through amending iGT UNC Part K to include a requirement on the PCWs/TPIs to enter into a confidentiality and service agreements, with the Gas Transporters on terms no less onerous than those of Part K, 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 iGT 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 Independent 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 Independent Gas Transporters. The relevant section of the iGT UNC will be amended to include the definition of PCWs/TPIs.
 - 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 held by PCWs/TPIs for no longer than reasonably required to comply with relevant legislation.
- The Independent Gas 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 Independent Gas 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 Independent Gas Transporters, including via a third party or an audit or security investigation, then the Independent Gas 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 Independent Gas Transporter, as specified within the iGT UNC and legal contracts, is not provided within a reasonable timeframe, then the Independent Gas 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 to create a commercial service which will provide access to domestic consumer data only for the sole purpose of aiding in more efficient supplier switching.

6 Impacts & Other Considerations

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

It is likely this modification would be required to enable the outcomes of Quicker and More Efficient Switching Significant Code Review. However, the impacts of the SCR will not be implemented until after this modification is required by the CMA order.

Workgroup Impact Assessment

As Urgent status was requested and agreed by the Authority, the required timetable did not allow for the modification proposal to be sent to a workgroup. However, in considering the Modification, respondents may also wish to note that an equivalent modification to this was raised in the UNC – Modification 0593 - Provision of access to Domestic Consumer data for Price Comparison Websites and Third Party Intermediaries. Documentation relating to this can be found at - <http://www.gasgovernance.co.uk/0593>

Consumer Impacts

When investigating the possibility of changing 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 to improve consumer engagement, and develop effective competition in the domestic retail markets. Through the improved switching reliability that this modification seeks to aid domestic consumers will be more engaged to fully understand and choose between the range of options available to them through PCWs/TPIs services offered both online and by telephone.

Note: In the main, TPIs are not currently representing domestic customers but this is anticipated to change in the future.

EU Code Impacts

None

Central Systems Impacts

None. Service provision will need to be provided – post NEXUS.

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) Co-ordinated, 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 agreements 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 Cooperation 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 can be validated at an early stage will increase confidence that switching will be successful. 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 modification should be no later than February 28 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.

It is noted the mirroring UNC modification 0593 has been sent to consultation with a view of the final modification report circulated by 16th February 2017.

As this modification is not self-governance Ofgem will make the final decision on implementation if approved.

9 Legal Text

Text Commentary

The legal text introduces a new permission for the release of protected data.

Paragraph 24.3 (j) describes the person to whom the data can be released (PCWs and TPIs as defined in iGT UNC Part M - Definitions) the circumstances of the release (they have permission from the domestic consumer and have entered into appropriate terms) and the data items are set out in SPAA schedule 23: 6.4.

24.3A also obligates the Transporters to publish an annual list of persons who have entered into agreements for this data.

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

Text

Add new paragraph, (j) as follows to section K of the iGT UNC paragraph 24.3.

:

Provision of domestic premise data to Price Comparison Websites and Third Party Intermediaries

24.3

...

j) To the disclosure of such data, by the Pipeline Operator, as is set out within Supply Point Administration Agreement ('SPAA') Schedule 23: 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 a confidentiality agreement with the Pipeline Operator (on terms no less onerous than those in paragraph 23) and reasonable access conditions.

24.3 (j) (i) The Pipeline Operators shall, by 31 March each year, publish a report detailing the market participants subject to 24.3 (j)

Add to iGT UNC [Part M – Definitions] new defined terms:

"Price Comparison Website" (PCW) shall mean an internet-based price comparison service or other internet based TPI (and the owner, operator or host of such a website, service or TPI) that provides comparisons between, and/or access to, personalised quotes for retail energy to domestic customers, and carried out, on behalf of the domestic customer an instruction to change the domestic customer's retail energy supplier, tariff or both.

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

10 Consultation

Panel invited representations from interested parties on 20th February 2017. The summaries in the following table are provided for reference on a reasonable endeavours basis only. We recommend that all representations are read in full when considering this Report. Representations are published alongside this Final Modification Report.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives	Key Points
ESPUG (Pipeline Operator)	Oppose	d - positive	<ul style="list-style-type: none"> • ESPUG is supportive of this modification’s intent and believes that the modification would create the necessary permissions in the IGT UNC to allow the release of domestic consumer data to Price Comparison Websites (PCWs) and Third Party Intermediaries (TPIs). However, ESPUG does not believe that adequate protection is in place for this data and, therefore, does not support implementation of this modification. • iGTs and Xoserve agree that the inclusion of the iGTs data in the data sets made available to PCWs/TPIs will not be possible if the current iGT UNC Modification Rules were followed, hence the reason for requesting Urgent status. • Although the reasons are understood, ESPUG is concerned that this modification is being progressed so rapidly. Due to these timescales, iGTs have less than one week to review and agree a confidentiality agreement (between iGTs and Xoserve) regarding the use and sharing of this data by Xoserve. As this has yet to be agreed, we cannot say at this time whether the provisions proposed by this modification give iGTs the appropriate permissions to make available the relevant data to PCWs/TPIs. • It is ESPUG’s view that the implementation of this modification should only take place after a privacy impact assessment has occurred and Xoserve has implemented appropriate mechanisms to monitor and control the usage of consumer data by PCWs/TPIs. We’d ask that Xoserve provide assurances to Panel of exactly how access to, and the use of, this data will be controlled and monitored.
E.ON (Pipeline User)	Oppose	d - positive g – possible negative	<ul style="list-style-type: none"> • The CMA Order requires the Gas Transporters to use their best endeavours to ensure the modification is approved and implemented as soon as reasonably practicable after the date of the order. Compliance to the specific wording in some parts of the order has been prioritised to the detriment of parts of the order. We believe that the best way to deliver the CMA Order therefore would not be to grant DES Access in the way currently proposed, but to work with the industry to bring the API solution forward without any further

			<p>delay.</p> <ul style="list-style-type: none"> • We believe the requirement of the modification to just give access to DES to PCWs and TPIs is flawed as a solution to comply with the CMA Order on a number of points which we have expanded on this within the further comments section of this response. • The UNC Panel did not recommend the implementation of UNC0593 and we would support the iGT UNC Panel concluding the same outcome before it goes to the Authority for final decision.
npower (Pipeline User)	Qualified Support	d - positive	<ul style="list-style-type: none"> • We support the change as this will facilitate consumer engagement and improve the switching process. This will reduce actual and perceived barriers to switching resulting from erroneous transfers and failed switches. • However, since our response to UNC 0593 we do now have concerns around the proposed solution and the systems capability to monitor the use of information for its intended use. We would expect to see controls in place to mitigate this.
SSE Energy Supply (Pipeline User)	Qualified Support	d - positive	<ul style="list-style-type: none"> • We support the intent of the modification as the CMA issued its Energy Market investigation final report in June 2016 which gave reasons for erroneous transfers and failed customer switches, and concluded that there is a requirement for PCWs/TPIs to be given access to data 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. • However, there are serious concerns that the system solution proposed does not have the required Data Protection security and reporting around the accessing and use of the data for its intended purposes. We are of the strong opinion that the system implemented must have these safeguards in place, together with proper audit measures to ensure that customer data is not misused and also that only data related to those customer types mentioned within the CMA report is able to be accessed.
Brookfield Utilities (Pipeline Operator)	Oppose	d - positive	<ul style="list-style-type: none"> • We would have liked for there to have been wider industry discussion on the overall solution to accessing the data as the DES solution has very much shaped our views on this modification i.e. we were unable to refer to domestic only data within SPAA schedule 23

			<p>6.4 due to the limitations of DES. For these reasons, although we support the intent of this modification we are unable to support it as it stands.</p> <ul style="list-style-type: none"> • We have a number of concerns with the modification which are outlined as follows: <ol style="list-style-type: none"> 1. There has been no iGT UNC Workstream discussion on this proposal due to the late identification of an inability to split IGT and GDN data within DES, consequently compressing iGT UNC timescales. 2. Due to the above, the iGT UNC modification has been shaped by the UNC solution and BU-UK has therefore had limited ability to develop the solution. 3. Referencing SPAA schedule 23 6.4 captures both domestic and I&C data whereas the CMA Order only applies to the domestic data (we understand there is a limitation with DES in being able to split this data). We suggest the Panel considers whether the legal text should be amended prior to submission to Ofgem to restrict the data to ‘domestic’ gas data under Schedule 23 6.4. 4. Although we acknowledge this is a ‘permissions’ Modification we feel it is intrinsically linked to a DES solution in which we believe there to be potential Data Protection issues. • We are concerned however that the consequences of not having concurrent iGT UNC and UNC modifications available for Ofgem could result in non-compliance with the CMA order as Xoserve would not have permission to provide iGT data within the DES view to PCWs/TPIs. • We acknowledge Shippers have suggested an ECOES solution is more appropriate due to Data Protection concerns but has been ruled out by GDNs and Xoserve due to restricted timescales and cost involved.
British Gas (Pipeline User)	Oppose	N/A	<ul style="list-style-type: none"> • We support the order and the principle of providing industry data to PCWs, to enable more frequent and improved switching journeys. Notwithstanding this the ICO letter to the CMA, states access to customer data must “be balanced with safeguards to ensure the personal data is kept secure and used appropriately”. “Consideration therefore needs to be given to how to monitor PCWs’ access and usage”.

			<ul style="list-style-type: none"> • The Agency, through instruction by the Transporters will put in place a legal framework with the PCWs before access is granted. Unfortunately, PCW access and usage of DES is not robustly, monitored, controlled or auditable, which raises concerns the solution is non-compliant with the Data Protection Act and risks breaches of customer data. Therefore, until adequate controls are developed, we cannot support this modification. • The CMA (ECOES/DES) Order, paragraph 33 sets out PCW access must be subject to the satisfaction of reasonable access conditions, which includes compliance with data protection legislation. • As a result, implementation of this modification should only take place after a Privacy Impact Assessment has occurred and the CDSP has implemented adequate monitoring, access and usage system controls. • It should also be noted that the CDSP does not offer the only solution for PCWs to access industry data. The ECOES Gas Ready Solution could provide the gas solution and meet the ICO requirements. We believe this option should be fully investigated before this modification is implemented.
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In summary:

- Six responses were received to the consultation for iGT095, incorporating four responses from Pipeline Users, and two responses from Pipeline Operators.
- Both Pipeline Operators and two Pipeline Users opposed this Modification. Two Pipeline Users offered qualified support. No respondents offered full support of this Modification.
- Where indicating support, respondents agreed that the Modifications better facilitated Relevant Objective D) Securing of effective competition.
- One party noted that the Modifications could negatively affect Relevant Objective G) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators.
- All respondents agreed that the Modifications did not meet the criteria for Self-Governance.
- All respondents agreed that the proposed Legal Text supported the requirements of the solution.
- All respondents noted concerns with the Modifications solution and in particular concerns over Data Protection.

11 Panel Discussions

The Code Administrator will provide a summary of the Panel discussions that inform any decisions taken. This will include a record of Panel's views on the representations, the outcome of any votes and, where alternates exist, Panel's preference.

Discussion

Insert text here

Consideration of the Relevant Objectives

Insert text here

Determinations

Insert text here

12 Recommendations

Panel Recommendation to Authority

Members recommended:

- that Modification iGT095 should [not] be implemented