

CODE OF OPERATIONS MODIFICATION PROPOSAL



MODIFICATION DETAILS

Modification Number: A 096

Modification Title: Data Sharing Agreement

Modification Proposer:	Modification Representative:	Modification Representative Contact Details (email address):	Date Submitted:	Proposed Implementation Date:
Gas Networks Ireland	Doug O'Brien	douglas.obrien@gasnetworks.ie	14/06/18	ASAP

Proposal (including rationale):

Amendment to Code of Operations to provide for the introduction of a new data sharing agreement between the Transporter and Shippers. This is proposed to reflect the introduction of Irish legislation, namely the Data Protection Act 2018 (implementing the General Data Protection Regulation (GDPR) (EU) 2016/679)) and to reflect the reality of personal data transfers between the Transporter and the Shippers. Note that the proposed Data Sharing Agreement has been developed through the GMARG, and this modification is proposed as a means of implementing the Agreement.

Proposed Implementation Date:

To be implemented once approved

Proposed section of the Code to be modified:

Amendment to the data protection provisions within Part I (Legal and General) at section 9 (Confidentiality and Data Protection).

MODIFICATION MOTIVATION

Intended Outcome of the Proposed Modification:

The intention is to address the changes in data protection legislation in Ireland and to reflect the types of data sharing that occurs between the Transporters and the Shippers and vice versa. The intention is also to recognise the various data releases that GNI does "on behalf of" Shippers. The changes would acknowledge the legal realities around listed in the schedules to the proposed ancillary agreement.

Benefits of implementing this Modification:

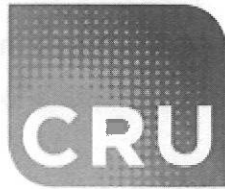
The current provisions refer to the Transporter as the Data Processor in respect of Personal Data being processed including for any purpose related to a Change of Shipper Request. The Data Protection Act 2018 (implementing the General Data Protection Regulation (GDPR) (EU) 2016/679)) imposes increased obligations on organisations that process personal data. The proposed changes to the Code of Operations and proposed new agreement reflects the reality that no data is being processed such that the Transporter or the Shippers are "Data Processors" as defined in the Data Protection Act 2018. The proposed changes provide that the Transporter is permitted to use and process any Shipper Personal Data (as defined in the proposed ancillary agreement) disclosed to it by the Shipper and vice versa in relation to the Shippers and GNI Personal Data (as defined in the proposed ancillary agreement). •• Information releases to the Office of Government Procurement (covered under legislation)

Consequences of not making this Modification:

The Code of Operations previously contemplated that GNI and Shippers each acted as "data processor" on behalf of the other. However, this may not properly reflect the arrangement between the parties and result in legal obligations on one or both parties that

Illustrative Example (Please enter a scenario where the issue and solution are illustrated):

See schedules in agreement



An Coimisiún
um Rialáil Fóntas
Commission for
Regulation of Utilities

CODE OF OPERATIONS

NOTICE TO SHIPPERS

PURSUANT TO THE CODE OF OPERATIONS

CODE MODIFICATION A 096 and A 096-A DATA SHARING

COMMISSION RATIONALE

Pursuant to Section 13 (1) of the Gas (Interim) (Regulation) Act, 2002, the Commission approves Code Modification A096 and “A096 – A”, as amended. The amendments see the adoption of only those changes to the Code of Operations relating to Brexit and the recognition that a controller to controller relationship may arise between shippers and the transporter. This approved modification will come into effect on 17th December 2019. The background and rationale are set out below.

BACKGROUND

The Code of Operations includes data protections provisions. Under Code Modification A096 Gas Networks Ireland and industry have discussed whether there is a need to change the current provisions, for example due to the Data Protection Act 2018. Discussions touched on such things as the permissible extent of data sharing (ie “permitted data purposes”) and the extent of data protection provisions to be included in the Code of Operations. General consensus was not reached on many of these discussion points. However, there was one area that agreement was reached: that a data controller to controller relationship could arise between GNI and shippers. this is currently not reflected in the Code of Operations.

An additional Code Modification was raised, "A096 – A" to propose changes to allow for data sharing with a third country so as to be prepared for Brexit (as the UK may be considered as a third country under Brexit). It was proposed that this would be facilitated by the adoption of model clauses. There were no objections to that approach.

BRIEF OUTLINE OF THE CODE MODIFICATION

Proposed updates to data protection provisions in the Code of Operations, including provisions to account for Brexit.

REASONS FOR APPROVAL OF THE CODE MODIFICATION

GNI has submitted Code Modifications "A 096" and "A 096 – A" to the Commission for consideration. The Commission has engaged with GNI on both these changes and hereby approves the minimum changes required for Brexit. These changes relate to the adoption of model clauses and the possibility for a controller to controller relationship to exist. We understand that, unlike other aspects of the Code Modifications, industry was in agreement with these changes (ie model clauses and a controller to controller relationship). The Commission also notes that the approach to adopt model clauses follows summary guidance as issued by the Data Protection Commissioner - [click for details](#). GNI has submitted updated legal drafting to reflect these two changes (attached for your information). The CRU would note that the provision for a data controller to data controller relationship, simply sets out that such a relationship is a possibility. This maintains the general approach followed in the Code of Operations, which simply sets out possibilities rather than defining when such a relationship would or would not occur.

The Commission notes that industry did not reach a consensus on the other changes proposed in Code Modification A 096. Those changes include the permissible extent of data sharing (ie "permitted data purposes") and the extent of data protection provisions to be included in the Code of Operations. The Commission would seek further justification of these proposals before considering them further. Such justification may or may not require engagement with the Data Protection Commission (DPC). The Commission, of course, would be happy to assist in any such engagement in terms of

providing details as to the Commission's regulatory duties and role in terms of the Code of Operations. The Commission looks forward to engaging with the Code Modification further on these matters.

providing details as to the Commission's regulatory duties and role in terms of the Code

1. The Commission shall have the following powers and functions:

(a) to regulate the market
