

## Supply Licence Review - Final Proposals



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**Target Audience:**

Gas and electricity suppliers and potential new entrants, network operators, gas shippers, consumer representatives.

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**Overview:**

Ofgem is committed to better regulation. Over the last two years we have worked with energy suppliers, customer groups and other stakeholders to review the standard conditions of the electricity and gas supply licences to see if they remain appropriate now that competition is firmly established in the energy market. We propose to cut the number of obligations in the licence in half to provide a simpler, clearer set of obligations. The main protection for customers will come from effective competition between suppliers - if they are unhappy with the price or service they are being offered they can switch to another supply company. We are proposing to retain only a limited number of obligations that are necessary for the energy market to function properly and to protect the interests of customers, in particular those who are vulnerable.

This document sets out our final proposals, the statutory consultation notices required to implement the new licences and guidance on the new conditions. We are asking for any final representations on the new licence conditions and are seeking the consent of suppliers to implement the new licence conditions. Subject to responses, we intend to introduce the new simpler, shorter licence in July 2007.

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## Context

This document is the final stage in our comprehensive review of the standard conditions of the gas and electricity supply licences. The Supply Licence Review is a major part of our commitment to better regulation. We have identified and plan to remove those parts of the standard conditions of the supply licences that are no longer necessary because competition is firmly established. We have also reviewed and simplified those standard conditions that remain necessary to protect vulnerable customers.

This document sets out our final proposals. Appendices 6 and 7 present two Statutory Notices, made under the Gas and Electricity Acts. Interested parties have until 29 June 2007 to register representations or any formal objection to the proposed modifications.

## Associated Documents

**Reviewing the gas and electricity supply standard licence conditions (February 2005) Ref 51/05**

<http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/9700-5105.pdf>

**Gas and Electricity Supply Licence Review - Way Forward (August 2005) Ref 187/05**

[http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/11381-187\\_05.pdf](http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/11381-187_05.pdf)

**Implications for Vulnerable Customers - Consultation Document (March 2006) Ref 42/06**

<http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/13166-4206.pdf>

**Supply licence Review - Initial Policy Proposals (July 2006 Ref 113/06)**

[http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/14581-Supply\\_Licence\\_Review.pdf](http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/14581-Supply_Licence_Review.pdf)

**DTI Consultation Energy Billing and Metering: Changing customer behaviour November 2006**

<http://www.dti.gov.uk/files/file35042.pdf>

**Supply Licence Review - Further Proposals (December 2006 Ref 217/06)**

[http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/16507-217\\_06.pdf](http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/16507-217_06.pdf)

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## Summary

Over the last two years, we have reviewed the standard conditions of the gas and electricity supply licences as part of our drive towards better regulation. We are determined to ensure that licence conditions are simple, enforceable and remain necessary now that competition is firmly established in retail energy markets.

This document sets out our final proposals for simplifying and shortening the gas and electricity supply licences. These proposals are the culmination of extensive work carried out by Ofgem over the last 18 months in close collaboration with stakeholders via nine working groups and five consultation documents. It has required a major commitment from all those involved to review the policy and drafting of the standard licence conditions. Ofgem would like to thank everyone who has contributed to the preparation of these proposals.

Companies supplying gas and electricity in Great Britain must obtain a licence from Ofgem before supplying customers. The obligations set out in these licences have not changed significantly since the market was opened to competition starting with the domestic gas market in 1996.

Eleven years later competition is firmly established with record numbers of customers switching supplier – either to get better prices, better service or a new product that is right for them – such as a green energy supply or an online fixed price deal. Competition protects customers by giving them the choice to get the combination of price and service that suits their individual need. It also disciplines suppliers by rewarding suppliers that provide good customer service at competitive prices and punishing suppliers who offer poor value or service. Suppliers are innovating and offering new types of product and services such as dual fuel, fixed and capped price contracts, online tariffs and products, green supplies and contracts that provide discounts for customers who read their own meters.

These developments mean we can and should rely more on the competitive market to protect customers' interests. As the market matures, prescriptive regulations that assume that suppliers do not have an incentive to provide good customer service or that they are only interested in serving certain categories of customers can have unintended consequences. These rules can discourage suppliers from innovating or solving the problems their customers face. They also discourage other companies from entering the market as new suppliers by making it more complex and costly to do so. An example of unintended consequences is the 28 day rule. This was put in place to prevent existing suppliers signing up their customers on long term contracts to restrict competition from new suppliers. But it may now be preventing existing and new suppliers offering more sustainable energy services to customers to reduce their energy use under long term supply contracts.

Suppliers have also put in place self-regulatory measures to protect the relatively small number of customers who are unhappy with the service they receive and cannot resolve the matter with their supplier. Suppliers have set up an Energy Supply Ombudsman who can award compensation to customers in these circumstances. We will be reviewing the performance of the ESO this autumn.

An important objective of our review has been to maintain protection for vulnerable customers. One working group focussed specifically on these issues and consulted separately on the implication of this review for vulnerable

customers. Our proposals provide simpler and better targeted obligations on suppliers to continue to provide the necessary protection for vulnerable customers.

Our review has involved either removing or redrafting each standard licence condition. Our proposals include: removing obligations for domestic suppliers to offer contracts that can be terminated on 28 days notice; reducing restrictions on termination fees; removing requirements for very small suppliers to offer particular payment methods; and the removal of the requirement for Ofgem to approve codes of practice across a range of activities. The new licence will be about half the length of the existing licence with obligations that are clear and more concise. We have halved the number of licence conditions and reduced the overall length from around 160 to 60 pages.

Our proposals meet the Government's drive to simplify regulation, reduce the administrative burden, adopt a risk-based approach and to work in accordance with the Five Principles of Good Regulation<sup>1</sup>. They also meet our statutory duty to regulate effectively and only where necessary, whilst protecting the interests of customers. Looking ahead, there may be scope to rely even more on competition rather than regulation so the gas and electricity retail markets become increasingly like normal commodity and service industry markets. We will continue to monitor the market to make sure that the new regulatory framework operates in the best interests of customers.

### **Policy developments**

We consulted on our initial proposals in July 2006 and published further proposals in December 2006. This document also reports on the questions we asked in December and sets out our decisions in regard to the remaining policy issues. These include:

- Introducing the ability for the Authority to relieve suppliers of the obligation to undertake an inspection of meters every two years where they have installed smart meters.
- Relieving small suppliers with less than 50,000 customers from the obligation to offer a range of payment methods to domestic customers.
- Introducing a requirement for suppliers to take all reasonable steps to recalibrate prepayment meters following a change in price.
- Extending the criteria for the eligibility for free gas safety checks to include owner occupier households in receipt of means tested benefits with children under five.

### **Next Steps**

We have already consulted extensively on these proposals. This document sets out the statutory notice required under the Gas and Electricity Acts for licence modification. We have set out separate modifications, rather than aggregating them into a single proposal. This approach offers far greater transparency for licensees and enables them to register any representations or objection they have to a specific proposal. The closing date for representations or objections is 29 June 2007. We hope to introduce the new shorter, simple licences in July 2007.

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<sup>1</sup> Proportionality, Accountability, Consistency, Transparency and Targeting. See <http://www.brc.gov.uk/publications/principlesentry.asp>

## 1. Overview

### Chapter Summary

This Chapter considers the objectives of the Supply Licence Review, the structure of the document and how the licences may evolve in the future.

1.1. Our final proposals for modifying the standard conditions of the gas and electricity supply licences achieve the objectives we originally set for this project in August 2005. They have been developed in close cooperation with the key stakeholders, through the Supply Licence Review Steering Group and its supporting working groups. We are grateful to all those who have engaged with the project and contributed to the development of these proposals.

### Applying the principles of better regulation

1.2. Ofgem has a duty in carrying out its statutory functions to have regard to the principles of better regulation. Following on from the Arculus report and the Hampton Review, the UK Government established the Better Regulation Executive to drive forward a radical programme of regulatory reform. Alongside this, the Better Regulation Commission was set up to provide independent scrutiny of departments' and regulators' performance. The European Commission has also announced its Strategic Review of Better Regulation<sup>2</sup> which includes measures to reduce administrative burdens and simplify legislation; demonstrating growing political support for better regulation at European level. The UK is seen as a pioneer in this field.

1.3. This review has applied the principles of better regulation to assess the obligations that currently apply to gas and electricity suppliers; namely those of proportionality, accountability, consistency transparency and targeting of regulation.

1.4. The majority of the current licence obligations date from the introduction of retail competition, and some can be traced back to the rules for monopoly energy companies established by privatisation. The Supply Licence Review proposals significantly simplify the existing supply licence obligations. Our proposals halve the number of licence conditions (in the case of electricity from 63 to 26 and in gas from 55 to 29) and reduce the length of the licence from around 160 to 60 pages. The number of separate obligations is also reduced by nearly a half. We think that the improved drafting of the proposed conditions makes obligations clearer, easier to understand and therefore, easier to enforce.

1.5. The changes to the licence conditions should lead to a reduction in administrative burden for gas and electricity suppliers; freeing them up to provide more innovative products and services for customers and focus their regulatory compliance activities on those areas needed to ensure the effective operation of the market and to protect customers.

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<sup>2</sup> [http://ec.europa.eu/governance/better\\_regulation/index\\_en.htm](http://ec.europa.eu/governance/better_regulation/index_en.htm)

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1.6. The environment within which the supply licence conditions operate will continue to evolve; this may in turn result in further proposals to modify licence conditions. Some examples include:

- Measures contemplated by the Government in the recent "Energy White Paper: Meeting the Energy Challenge, May 2007"<sup>3</sup> for action of fuel poverty, securing energy efficiency and reductions in carbon emissions.
- Changes to the legislation for consumer representation.
- The development of the European Commission's third package of energy reforms.

1.7. Additionally, there remains scope for suppliers to challenge the requirement for obligations to be in the supply licence by improving the effectiveness of self-regulation by building on the success of the ombudsman scheme (for instance, it may in time be appropriate to review the need for retaining restrictions on the use of termination fees).

### **Next Steps**

1.8. We have consulted extensively on these proposals and think that they offer real benefits for stakeholders in terms of proportionate, targeted regulation where necessary together with far clearer drafting of the licence conditions.

1.9. Supply licence holders may submit representations or objections by 29 June 2007 to any of the proposals set out in the notices made under section 23 of the Gas Act 1986 and section 11A of the Electricity Act. The Notices are set out in appendices 6 and 7.

1.10. If we receive objections from less than 20% of the relevant licence holders; or less than 20% of the relevant licence holders weighted according to their market share then we intend to implement our modification proposals. Chapter 4 outlines the detail of our approach if we are prevented from making an individual or a number of modification proposals. If sufficient objections are made to block a proposal then, if the Authority still considers that a modification should proceed, we will consider whether to make a reference to Competition Commission. If the Competition Commission reports that the modification is in the public interest then it may be implemented by the Authority.

1.11. If our proposals are accepted, we will issue a notice directing that the modifications be made; and setting out the date on which the new conditions will come into operation. We anticipate that the modified conditions will come into operation 28 days after the direction to modify the licence conditions is issued.

### **Structure of this document**

1.12. In Chapter 2, we review the key policy developments that have led to the changes to the proposals set out in our December document. In Appendix 1 we summarise the views of respondents to the questions raised in the December consultation and set out our current views.

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<sup>3</sup> <http://www.dtistats.net/ewp/>

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1.13. Chapter 3 introduces the supplementary documents set out in appendices 10 and 11. These include non-binding explanatory notes on many of the licence conditions together with background information to help the reader better understand the purpose and function of the obligations.

1.14. Chapter 4 considers the legal issues arising from the modification process. It discusses the approach we have taken in proposing modifications to the existing licence and how the Authority is likely to deal with any objections to those proposed modifications. It also describes the consequential amendments that are expected to be made to other licences (in particular the gas transporter licences), the Master Registration Agreement<sup>4</sup> (MRA), the Distribution Connection and Use of System Agreement<sup>5</sup> (DCUSA) and the Electricity (Standards of Performance) Regulations 2005<sup>6</sup>.

1.15. In appendices 6 and 7 we present the statutory modification notices together with the final proposed legal text for the modified standard licence conditions.

1.16. In appendices 8 and 9 we include for ease of reference 'changed marked' versions of the proposed new standard conditions showing the changes made further to our consultation in December; and a table which lists and explains those changes.

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<sup>4</sup> This agreement, along with its associated documentation, sets out the inter-operational arrangements that support the processes for the registration of a change of electricity supplier in the UK retail market.

<sup>5</sup> This agreement provides a single centralised document which relates to the connection to and use of the distribution networks.

<sup>6</sup> This Statutory Instrument prescribes the sum which suppliers or electricity distributors must pay to a customer by way of compensation for failure to meet specified standards of performance in respect of the services to be provided by such suppliers or distributors. The sum payable differs between domestic and non-domestic customers, and between standards.

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## 2. Proposals – Key developments since December 2006

### Chapter Summary

This chapter sets out our current views on policy proposals following responses to the December 2006 consultation. In particular it discusses:

- our proposal to retain a modified obligation to inspect meters;
- changes to the proposed definition of the free gas safety check and;
- our proposal to introduce obligations relating to the timely recalibration of prepayment meters.

Appendix 1 to this document sets out the detailed views of respondents to these, and the other issues<sup>60</sup> raised in the December document.

### Methods of payment

2.1. In December we proposed that small suppliers should not be required to offer a wide choice of payment methods, including frequent cash payments and payment in advance through a prepayment meter. We argued that this would be disproportionate given the fixed costs of complying with these requirements and that this obligation could deter new entry to the market. Instead, we proposed to introduce a threshold of 50,000 domestic customers, below which a supplier would not be required to offer a wide range of payment methods.

2.2. Small suppliers supported the proposal. Two suppliers (one of which is planning to enter the domestic market) provided evidence of the costs of setting up and maintaining the specified payment methods for a small number of customers. This information supported our view that the costs for new entrants or small suppliers (who do not have a significant number of customers using these payment facilities) are significant.

2.3. The big six domestic suppliers had mixed views; two agreed with the proposal, two suggested a lower threshold and two considered that the proposal may distort competition. One said that, as some suppliers held multiple supply licences, the threshold should apply to the corporate group rather than to each licence.

2.4. Consumer groups were also concerned that the proposals would limit customer choice. Energywatch urged Ofgem to monitor the situation if the proposal was accepted.

#### *Ofgem's view*

2.5. The EU Directives<sup>7</sup> require Member States to ensure that household customers are offered a wide choice of payment methods. We intend to provide for this by requiring suppliers with a domestic customer base above 50,000 to offer such a choice.

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<sup>7</sup> Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas (the "IMGD"); and Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity (the "IMED").

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2.6. We consider that for small suppliers, the fixed costs of providing a wide choice of payment methods, including payment by cash and through a prepayment meter, are disproportionate to the benefits that maintaining the obligation would be likely to give. In addition, a universal requirement may discourage new entrants. We therefore consider that it is appropriate to introduce a threshold below which this obligation would not apply.

2.7. We note the possible precedent models identified by respondents, for example the use of turnover thresholds or applying the threshold to the corporate group. However, we consider that at this time the model we are proposing is appropriate. The application of any threshold in this matter is to some extent artificial, but we consider that 50,000 domestic customers is a reasonable point at which a supplier would have sufficient customers to warrant the costs imposed by this obligation for the benefits for customers.

2.8. We note the concerns raised by some respondents that a 'per licensee' approach is open to abuse with suppliers acquiring numerous licensees to avoid passing the threshold. We do not consider that there is any significant risk that suppliers will act in such a manner but if there is evidence that they are doing so we will review the approach and take appropriate steps ensure the policy is not disadvantaging customers.

2.9. We therefore intend to introduce the threshold of 50,000 domestic customers proposed in the December consultation. A licensee who supplies fewer than domestic 50,000 customers will not be required by its licence to offer domestic customers a wide choice of payment methods and the methods of payment, such as frequent payments by cash and prepayment, specified in proposed condition 27.1.

## **Free gas safety checks and gas safety information**

2.10. In December we proposed to include in the gas safety condition a requirement for suppliers to carry out a specific test for carbon monoxide emissions using appropriate equipment. This is not currently a licence requirement.

2.11. We also proposed to narrow the eligibility criteria for gas safety checks so that they would only be free for those currently qualifying customers<sup>8</sup> on means tested benefits.

2.12. In addition, we proposed that licensees should be obliged to send information to all customers annually on the dangers of carbon monoxide poisoning, the benefits of fitting a carbon monoxide alarm, the use of gas appliances and fittings, the benefits of gas safety checks and where to seek assistance if appliances are condemned as the result of a gas safety check ('gas safety information').

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<sup>8</sup> The current licence condition requires suppliers to provide annual free gas safety checks on request to owner occupier households where all the occupants are either of pensionable age, disabled, or chronically sick; or are such occupants and are living with a person under 18 years old.

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2.13. On 20 April 2007<sup>9</sup> we published a further consultation letter on extending the eligibility criteria (from that proposed in December) to include owner occupier households where the customer receives means tested benefits and lives with a child who is less than 5 years of age.

*Respondents' views*

2.14. Centrica commented that the proposed test was unnecessarily prescriptive, that it went beyond the tests to be carried out annually by landlords under the Gas Safety (Installation and Use) Regulations 1998 (applicable to landlord safety checks) and that its introduction would have a significant impact on the cost of these checks. Suppliers stated that anyone, including an operative carrying out a free gas safety check, performing work on a gas appliance must comply with these regulations, and that they provide adequate means to detect signs of carbon monoxide.

2.15. However, carbon monoxide interest groups have maintained that the check should include a specific test with a flue gas analyser as visual checks may not be adequate to detect carbon monoxide.

2.16. A number of consumer groups called for the eligibility criteria for a free gas safety check to be extended to all low income customers, or at least to those with children. energywatch in particular made reference to single parents in receipt of benefits or low incomes, with small children. There was also concern that the total eligible group of customers would reduce from 5million to 1million under the December proposals.

2.17. e.on considered it unsatisfactory that the proposals did not encourage suppliers to target subsidies on those customers at greatest risk.

2.18. In response to the April consultation letter, suppliers, most consumer groups and the HSE supported extending the eligibility criteria. CO-Gas Safety stated a preference for all customers in receipt of benefits to be included, but if not, for those with children under 18 to be included.

2.19. energywatch, in response to the April consultation, advocated that the free gas safety check must be carried out within a reasonable period of time after the request from the eligible customer. energywatch also considered that suppliers should be required to give advice on the sources of help at the time that an appliance was condemned.

2.20. ScottishPower considered that gas safety advice should be a government responsibility and that Ofgem should recognise voluntary initiatives to raise awareness.

2.21. CO-Gas Safety continued to argue for a high profile media campaign to raise carbon monoxide awareness, possibly funded through an industry levy.

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<sup>9</sup> <http://www.ofgem.gov.uk/Markets/RETMKTS/COMPL/SLR/Documents1/SLR%20-%20Eligibility%20for%20free%20gas%20safety%20checks%20-%2020%20April.pdf>

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*Ofgem's view: Safety checks*

2.22. Our final impact assessment for gas safety and information is attached in Appendix 5. This is based on the draft impact assessment published with the December consultation, the responses to that consultation and the further April consultation. The final impact assessment sets out more fully the reasons for our proposal and the evidence on which it is based.

2.23. Discussion with HSE and our own technical advice has confirmed that the check to be carried out annually by landlords under the Gas Safety (Installation and Use) Regulations 1998 requires a series of examinations which would be likely to identify faults that may result in excess or unsafe levels of carbon monoxide emission.

2.24. Given this, we have redrafted the gas safety check to mirror the tests stipulated in these regulations<sup>10</sup> for the annual landlord check, which for each gas appliance must include an examination of:

- The effectiveness of any flue;
- The supply of combustion air;
- Its operating pressure or heat input, or where necessary, both; and
- Its operation so as to ensure its safe functioning.

2.25. As we have set out in the supplementary documents (appendices 10 and 11) the purpose of the gas safety check is for the licensee to examine the safety of the customer's gas installation. This is likely to detect whether there are any conditions which may cause any excessive levels of carbon monoxide.

2.26. These requirements would not preclude the use of a flue gas analyser if the supplier considered that it was appropriate in the circumstances. We understand that some suppliers already use flue gas analysers for appliance servicing for efficiency reasons to avoid the need to "strip down" appliances.

2.27. To the extent that HSE and Parliament may decide in the future to implement a more stringent carbon monoxide test for landlords then we would look to introduce an equivalent test for free gas safety checks under the licence. However, we consider that HSE and Parliament should lead the way on these safety issues.

2.28. We have not received any evidence of delays in carrying out free gas safety checks; therefore we do not propose to include a requirement to carry out the check within a reasonable period of time following a request from a customer.

2.29. The revised requirements on gas safety checks and gas safety information are set out in the proposed new condition 29 of the modified Gas Supply licence. We propose to align the scope of the obligation with the annual landlords' check prescribed under the Gas Safety (Installation and Use) Regulations 1998. We propose to keep the requirement for suppliers to provide information to customers on the provision of safety checks as set out in the December consultation.

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<sup>10</sup> Regulations 26(9) and 36(9) of the Gas Safety (Installation and Use) Regulations 1998.

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*Ofgem's view: Eligibility for free gas safety checks*

2.30. Following the December consultation we received further evidence<sup>11</sup> which indicated that children are at an increased risk from carbon monoxide poisoning compared to adults.

2.31. Following responses to the April consultation letter (as referred to in 2.13) we propose to amend the eligibility criteria for customers to receive free gas safety checks that we set out in the December consultation. These criteria will now include currently qualifying customers<sup>12</sup> on means tested benefits, and owner occupiers in receipt of means tested benefits, living with a child under 5.

2.32. This focuses eligibility for free gas safety checks on those who are likely to be at increased risk from gas appliances, and in particular at increased risk of carbon monoxide poisoning<sup>13</sup>.

2.33. In the draft impact assessment published with the December consultation we considered whether the interval between free gas safety checks (currently not less than one year) should be determined by a risk based approach in individual cases. Anecdotal evidence suggested the initial check may reveal more problems than subsequent checks where remedial work may have already been carried out. However, no robust evidence was provided in this respect. Nevertheless, the proposed licence condition contains a provision allowing the Authority to extend the interval period between checks (currently not less than one year) should robust evidence be provided in the future.

2.34. We stated in our December consultation that we would be concerned if the total number of free gas safety checks provided by licensees fell much below the current level of 45,000 checks per annum. Given the increased customer awareness of the dangers of gas (and carbon monoxide in particular) as a result of the broader information requirement (see below) there is the potential for the number of free checks – and certainly for the total number of checks (free and paid) – to increase. We also stated that we would expect suppliers to be sensitive to the needs of customers who may previously have been entitled to free checks but are no longer so entitled, or other vulnerable customers on low incomes, for example by offering checks at cost in such cases. We will monitor suppliers' performance on the total number of free and paid for checks undertaken, and publish the results of our monitoring. DTI and HSE will continue to have an interest on the outcome of our proposals and the results of monitoring.

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<sup>11</sup>

[http://www.dh.gov.uk/en/PublicationsAndStatistics/LettersAndCirculars/ProfessionalLetters/ChiefMedicalOfficerLetters/DH\\_4004524](http://www.dh.gov.uk/en/PublicationsAndStatistics/LettersAndCirculars/ProfessionalLetters/ChiefMedicalOfficerLetters/DH_4004524)

<sup>12</sup> The current licence condition requires suppliers to provide annual free gas safety checks on request to owner occupier households where all the occupants are either of pensionable age, disabled, or chronically sick; or are such occupants and are living with a person under 18 years old.

<sup>13</sup> See impact assessment Appendix 5, see in particular paragraphs 5.23-25 and 5.30-35.

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*Ofgem's view: Gas safety information*

2.35. We propose to implement the information requirement we put forward in the December consultation. This will include a requirement for suppliers to provide information, at least annually or on request, to all customers (i.e. not just those eligible for the PSR) on:

- the dangers of carbon monoxide poisoning;
- the benefits of fitting a carbon monoxide alarm;
- advice on the use of gas appliances and fittings;
- the benefits of gas safety checks; and
- where to seek assistance if appliances are condemned as the result of a gas safety check.

2.36. HSE's statistics record that there were 18 deaths and 203 non-fatal injuries from carbon monoxide poisoning in 2004/5. 11 of these deaths were in owner occupied premises. HSE's research as part of its gas safety review has found that 45% of homes received no information on the dangers of carbon monoxide. In view of this analysis, we continue to consider that suppliers should be required to provide information to all customers on an annual basis.

2.37. As we have set out in the supplementary document (see Appendices 10 and 11), information on the dangers of carbon monoxide poisoning should include that it can result in death or lasting neurological damage in victims; we have provided links to websites where further information can be found.<sup>14</sup>

2.38. In response to the continued call for a high profile media campaign on gas safety we note that the industry has given a commitment to the Health and Safety Minister to work with CORGI; and a Ministerial Group is being set up to hold the industry to account on raising carbon monoxide awareness. We consider that our requirement for information to be provided by suppliers at least annually or on request is an appropriate and proportionate response to this issue.

2.39. As part of this information requirement suppliers will be required to provide information on where to seek assistance if appliances are condemned. This information has to be provided at least annually and on request. It is highly likely that customers will request advice at the time when appliances are condemned; therefore suppliers will be required to provide information at that time. If a customer does not request this at that time, we would expect suppliers to provide this information without a licence requirement to do so.

2.40. As discussed in our final impact assessment at Appendix 5, our proposal to broaden the requirement for gas safety information is related to our proposal to focus the eligibility for free gas safety checks. If this proposed modification to broaden the information requirement was blocked, then it would be unlikely that the Authority would direct the proposed modification to make changes to the eligibility for free checks.

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<sup>14</sup> Further information on the dangers of carbon monoxide poisoning can be found in Chief Medical Officer letters on the Department of Health website <http://www.dh.gov.uk/en/PublicationsAndStatistics/LettersAndCirculars/ProfessionalLetters/ChiefMedicalOfficerLetters>, and from the Health Protection Agency website [http://www.hpa.org.uk/chemicals/compendium/carbon\\_monoxide/default.htm](http://www.hpa.org.uk/chemicals/compendium/carbon_monoxide/default.htm)

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## Resetting of prepayment meters

2.41. In the December consultation we proposed to address the issues arising from delayed resetting of token prepayment meters by:

- requiring licensees to take all reasonable steps to recalibrate the meter in a timely manner; and
- prohibiting licensees from blocking customers from switching supplier if they wish to do so, where their debt has arisen because of delayed resetting.

2.42. On 26 April 2007 we published a further open letter<sup>15</sup> proposing a change to the drafting of the licence condition. The effect of this proposed change was to make clear that the obligation to take reasonable steps to reset the meter would apply where there has been a price change, even where the price change occurred before the new obligation is in place. In assessing compliance however, we would only look at any potential failure to take reasonable steps after the new obligation comes into force.

### *Respondents' views*

2.43. Responses to the December consultation focused on two issues:

- consumer interest groups considered that the obligation on timely resetting of meters did not go far enough and should be replaced by a ban on 'back-charging' customers where the supplier has not reset the meter; and
- one supplier considered that the ban on blocking a customer from switching supplier should be altered to allow suppliers to block customers where they had taken reasonable steps to reset the meter but had been unable to access the property.

2.44. The majority of suppliers and consumer groups agreed with the proposals that we set out in the April consultation letter.

### *Ofgem's view*

2.45. We recognise the view of respondents that one way of tackling the problem of debt build up is to not permit licensees to apply the new prices until they have reset the meter. Whilst we acknowledge the concerns of consumer groups, we note the view from some suppliers that a ban on "back-charging" may discourage some customers from providing access to their property with the aim of preventing the supplier resetting a PPM to reflect a price increase. Therefore, we do not consider it appropriate to incorporate this into the licence condition. However, we remain firmly of the view that suppliers can adopt a different approach, namely the best practice set out in our December statement<sup>16</sup>, to act quickly to reset meters so that customers pay the correct tariff. In our view, such an approach is important in a time of rising prices to prevent debt from building up; and as prices begin to fall. This will enable customers to benefit from reduced

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[http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/PPM%20recalibration%20open%20letter%20\(Apr%2007\).pdf](http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/PPM%20recalibration%20open%20letter%20(Apr%2007).pdf)

<sup>16</sup> [http://www.ofgem.gov.uk/Sustainability/SocAction/Publications/Documents1/16521-218\\_06.pdf](http://www.ofgem.gov.uk/Sustainability/SocAction/Publications/Documents1/16521-218_06.pdf)

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prices as soon as possible. We are monitoring closely suppliers' progress against this best practice and will look to take further action if they are not responding properly.

2.46. The supplementary documents (see appendices 10 and 11) sets out what actions we consider suppliers are likely to need to take in order to take 'all reasonable steps'. This focuses on clear and proactive communications with customers and the steps that suppliers should take to try and make sure that meters are recalibrated quickly. Where a customer encounters a problem as a result of their meter having not been reset, we have called on suppliers (in the December statement) to handle debt issues sensitively and in particular to write-off debt in cases of genuine hardship.

2.47. We propose to include the change to the licence conditions as set out in the consultation letter of 26 April 2007. This clarified that the obligation to take all reasonable steps to reset the meter will apply where there has been a price change, even where the price change occurred before the new obligation is in place. However, the 'reasonable period of time' in which all reasonable steps has to be taken does not begin until the licence modification is made. Without this change there is a risk that a supplier who had changed its prices before the implementation of the new licence condition would not be subject to this obligation. This is not in line with our policy objective, to reduce the build up of debt because of failure to reset meters where the tariff on the meter does not match the current price being charged to the customer. Our proposal does not create a retrospective obligation. A supplier would not be in breach of its licence for any failures "to take all reasonable steps" to reset the meter prior to the implementation of this licence condition.

2.48. In terms of the ban on blocking transfer requests we have amended the drafting to recognise that, in some cases, the customer may deny access. However, these changes do not mean that suppliers can prevent transfer requests unless they have taken all reasonable steps to reset the meter within in a reasonable period of time. Where the licensee's communication with a customer has been inadequate and/or where they have made insufficient effort to access the property and reset the meter they would not be permitted to block the customer from transferring. Even where suppliers have taken appropriate steps to reset the meter we do not consider that they should prevent customer transfers in situations where there has been a significant delay between the price change and the supplier taking such steps.

### **Meter moves for vulnerable customers**

2.49. In December 2006 we proposed to remove the obligation to move meters (both credit and PPMs) for customers who were eligible for inclusion on the Priority Services Register (PSR), on the basis that it would be sufficient to rely on the obligations on suppliers in the Disability Discrimination Act 1995 (DDA) to make reasonable adjustments for customers where they are required and the obligations placed on suppliers in the Gas and Electricity Acts.

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*Respondents' views*

2.50. A number of the respondents to the December consultation raised concerns about our proposal to remove this obligation. In particular they were concerned about how it might impact on customers who use prepayment meters. Wales and West Utilities highlighted that the Gas Act does not provide an obligation to move the meter at the request of the disabled customer.

*Ofgem's view*

2.51. We continue to consider that the DDA will provide sufficient protection for most disabled<sup>17</sup> customers, as licensees are required to make 'reasonable adjustments' so that these customers can use the service provided by the licensee. In the case of credit meters this obligation to make 'reasonable adjustments' may mean that a meter move is required in some circumstances whilst for others it may be sufficient for a special quarterly meter reading service or a remote visual display to be provided. In the case of prepayment meters, where the customer needs to access the meter in order to check their credit levels and insert the payment device, it is likely that in most instances the reasonable adjustment will be to move the meter, as options such as quarterly meter reads would not be appropriate.

2.52. While we consider that the DDA will provide appropriate protection for most customers with a PPM, it is not clear how some elderly customers will be affected. In view of this uncertainty, we now propose to retain a narrow and targeted obligation in this area to address the specific issue of PPMs. The consequences of any difficulties in gaining access to top up a PPM are quite severe in terms of loss of heating and lighting, compared with not being able to read a meter. We propose to require licensees to move a PPM for PSR eligible customers who cannot readily make payments through their PPM because of infirmity. The retention of this obligation recognises that there may be some cases where mobility and access may be issues but application of the DDA may be disputed (for example in relation to issues of long-term frailty). The proposed obligation is more focussed than the current obligation and aims to ensure that there is appropriate protection for those customers.

## Two year meter inspection

2.53. In December 2006 we said that we would propose removing the current obligations to inspect meters every two years subject to any theft and safety issues being satisfactorily resolved. To make this case, the ERA commissioned a Risk Assessment. We said that we would use this Risk Assessment to inform our own impact assessment which in turn would be the basis for a wider consultation.

2.54. The ERA Risk Assessment has not allowed ERA suppliers to collectively call for the removal of the current obligations. Nor is there a consensus amongst suppliers as to how the obligation could be modified to provide sufficient assurance in respect of safety and theft.

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<sup>17</sup> as defined in the DDA

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2.55. A number of network companies have also registered strong concerns about the removal of this obligation, partly on the basis of loss of revenue through increased theft, but predominately in relation to who is responsible for the safety of meter installations. HSE advised that they did not consider that the Risk Assessment satisfactorily demonstrated that the level of risk would not increase, if the obligation was to be removed.

*Ofgem's view*

2.56. The ERA's Risk Assessment has also not provided Ofgem with information that would allow us to publish our own impact assessment to support the case that removing the obligation would benefit customers. Whilst it did suggest that the costs of meeting the obligation may be disproportionate to the benefits, it did not give a clear view of the costs that would be avoided were the obligation to be removed. Moreover, it did not assess what the removal or relaxation of the obligation might mean for the overall risks that customers may face.

2.57. In our discussions with the industry we have questioned whether a case could be made to remove the obligation in the specific circumstances where a smart meter has been installed. At present, a compelling case has not been made. Suppliers have not demonstrated how, without the obligation, customers would be better served or how the concerns of other stakeholders can be addressed.

2.58. We still think that the current obligation could be modified to give suppliers greater control over the management of the safety of meter installations and effective measures to deal with theft. The current obligation specifies that an inspection of the meter and associated installation must be carried out every two years. This may be too prescriptive. There are likely to be circumstances where an inspection would not be needed so frequently. For example, suppliers have suggested that smart meters may be able to provide data to them that would substitute for a periodic visual inspection. A number of suppliers suggested that an appropriate way forward would be for the supply licence to require suppliers to take reasonable steps to ensure that the meter installation on customer premises is safe and is not interfered with, but that the licence should not specify the method.

2.59. However, without a clear consensus from industry parties on how the obligation should be modified or a robust risk assessment of the options to allow us to provide a meaningful and informed impact assessment, it is not appropriate to propose substantial changes now. We do however propose to include a provision for the Authority to be able to issue a derogation from the obligation. Many suppliers have consistently told us that the current inspection requirement is a barrier to the introduction of smart metering. If therefore a supplier thinks the requirement is indeed holding it back from innovating, it will be able to request a derogation if it can demonstrate that customers will be better off and that safety will not be compromised.

2.60. A derogation is only likely to be considered following consultation and consideration of the views of the HSE and other stakeholders.

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## Customer appointed meter inspection agent

2.61. On 3<sup>rd</sup> April 2007 we consulted<sup>18</sup> on simplifying the arrangements the inspection of gas meters by removing those provisions that deal with the customer appointing their own 'meter inspection agent'.

2.62. Respondents agreed that these provisions (currently set out in gas supply standard condition 17) did not need regulation and could, if the circumstances were to arise, be dealt with through contract.

### *Ofgem's view*

2.63. We agree with the views of respondents and therefore propose to remove the current arrangement which deal with customer appointed meter inspection agents. Our proposal significantly shortens and simplifies this obligation for gas suppliers and brings it in line with that for electricity suppliers.

## Use of Meter Asset Managers

2.64. One consequence of our proposal (set out in the December consultation) to remove the obligation on domestic gas suppliers to provide a meter to domestic customers on request is that the current obligation to use a Meter Asset Manager (MAM) when so doing would also fall away. In December we signalled that there may be a case for retaining an obligation relating to the use of MAMs. We said then that this would be considered in the impact assessment planned to consider the issues surrounding the requirement for a two-year meter inspection.

2.65. On 2<sup>nd</sup> May 2007 we consulted on the wording for maintaining the obligation for domestic gas suppliers in respect of MAMs<sup>19</sup>. A MAM is (in summary):

- a person or class or description of persons approved by the Authority as possessing the expertise to provide Meter-Related Services<sup>20</sup>, or
- an undertaking approved by the Authority as having staff possessing such expertise.

2.66. Going forward we intend to simplify the drafting of this definition so that it provides that a MAM is a person approved by the Authority (a) as possessing the expertise to provide specified meter related services or (b) as having staff possessing such expertise.

2.67. We considered two approaches to maintaining the obligation in the consultation. Either requiring the licensees to use an approved MAM where it

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<sup>18</sup> [http://128.86.236.113/temp/ofgem/cache/cmsattach/19297\\_7907.pdf](http://128.86.236.113/temp/ofgem/cache/cmsattach/19297_7907.pdf)

<sup>19</sup>

<http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/MAMCoP%202May.pdf>

<sup>20</sup> Meter-Related Services are defined as the provision, installation, commissioning, inspection, repairing, alteration, repositioning, removal, renewal and maintenance of the whole or part of the Supply Meter Installation.

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“arranges for the provision of” the meter (similar to the existing drafting), or to give greater clarity by stating that the licensee must use a MAM where it provides certain ‘Meter Related Services’.

2.68. Respondents were in favour of retaining the obligation, although views were split as to which formulation should be used. Some respondents argued that the obligation should be extended to the non-domestic market.

*Ofgem's view*

2.69. We propose to continue to use the simpler formulation (set out at proposed condition 12.18), requiring a supplier to use an approved MAM where it arranges for the provision of a gas meter. We decided against the option that specified the activities for which the licensee should use a MAM, based on the list of activities used to define Meter Related Services. This proposal carried the risk of extending the obligation to use a MAM into the role already covered by the OAMI arrangements, and for the two-year meter inspection and would be likely to cause greater uncertainty as to the extent of the obligation.

2.70. Looking forward, based on the responses to the consultation, there may be case for doing further work to clarify regulation on the use of MAMs. This may include consideration of whether the arrangements for managing the safety of a gas meter installation and provision is best dealt with through the supply licence. Gas suppliers have strong incentives to conduct their arrangements with MAMs to ensure safety standards are maintained. And even if existing safety regulations are not in themselves thought to be sufficient, it is not clear that the additional measures are necessarily best placed in the supply licence. We will consider this issue following the review of the supply licences.

2.71. Any decision to make significant change in this area would need to be made on the basis of an appropriate assessment of the risks and in collaboration with the HSE and other stakeholders. If we decide to consider these questions, this will be on the basis of a further consultation.

## **Industry codes and agreements**

2.72. We have made a change to the proposed obligation for suppliers to adhere to Industry Codes – in particular the requirement in proposed new condition 11.3 (electricity) and condition 30.2 (gas). These obligations require suppliers to take all reasonable steps to secure that consequential changes required to give effect to a code modification are made and to ensure that no unreasonable steps are taken to prevent or delay the making of these changes. We considered that there was a risk that this obligation could be interpreted as restricting a supplier from appealing a modification decision. We have therefore added text<sup>21</sup> to make it clear that it that this requirement does not prejudice any right that the licensee’ may have to appeal an Authority decision in respect of a modification to an Industry Code.

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<sup>21</sup> Proposed new condition 11.4 (electricity) and proposed condition 30.3 (gas)

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## **Termination of shipper arrangements**

2.73. We have amended proposed condition 18 (gas) that requires the supplier to provide an undertaking to the Gas Transporter that they will pay charges in the event that their shipper should fail. This amendment follows the response to views raised by National Grid and the Energy Balancing Credit Committee and has been discussed and agreed by the SLR Steering Group. Our amendment clarifies that the licensee must provide appropriate security to the transporter as well as paying for the gas taken out of the pipeline system as if the arrangements between its shipper and the transporter had continued.

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## 3. Supplementary documents

### Chapter Summary

This chapter introduces the supplementary documents that we have prepared to assist in providing further guidance, background and details of the intent of the proposed licence conditions. The supplementary documents are set out in full in appendices 10 and 11.

### Supplementary documents

3.1. In December we asked for views on whether it would be helpful for Ofgem to provide supplementary documents to assist in clarifying the background and intent of the new licence conditions.

3.2. Respondents broadly welcomed the introduction of supplementary documents although some questioned whether they were necessary given that the proposed new conditions were significantly clearer. More detail on the views of respondents is set out in Appendix 1.

3.3. We propose to issue supplementary documents when the modified gas and electricity supply licences are implemented. We have included our proposed supplementary documents, one for each of the electricity supply licence and the gas supply licence, in appendices 10 and 11. These documents have been developed in conjunction with the SLR Legal Workgroup and we are grateful for their assistance. They have also been reviewed by the SLR Steering Group.

3.4. The supplementary documents should be read in conjunction with the standard conditions. They are not intended to be a comprehensive description of the standard conditions, but have been prepared to assist the reader in understanding the background and intent of the standard conditions and provide guidance where necessary.

3.5. The supplementary documents may be amended to reflect changes in the licence conditions or market developments. They do not form part of the standard conditions and have no legal effect. They are not binding on the Authority or on licensees.

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## 4. Legal framework for making the modifications

This Chapter explains the function of the modification notice and discusses how the Authority would treat an objection to one or more of the proposed modifications. It also discusses consequential amendments that are being made to other licences and industry codes.

### **General principles for assessing the impact of one or more of the proposed modifications being “blocked”**

4.1. In this section we discuss the implications of any of the proposed modifications being blocked by the objections of relevant licence holders<sup>22</sup> or by the Secretary of State directing the Authority not to make a modification.

4.2. If licensees do object in sufficient number to block a proposed modification, the Authority may make a reference to the Competition Commission if we still want to proceed with the modification. If the Competition Commission subsequently reports that it is in the public interest for the modification to be made, then the Authority may implement the modification.

4.3. Our proposals require that all of the standard conditions of the supply licences are either redrafted or removed. One approach would have been to present these changes as a single modification to the gas and electricity supply licences, respectively. However, that would have meant that where either a licensee or the Secretary of State opposed an element of the modification, their objection would have to have been made to the entire package of changes.

4.4. We have therefore separated the changes into separate proposed modifications for each licence. In the light of the extent of our proposals (and the unique nature of the Supply Licence Review), it is our view that this is the fairest and most transparent way in which to present our proposals. This approach means that licensees and the Secretary of State may object to a discrete proposal, without necessarily jeopardising the fate of the whole package.

4.5. The Statutory Notices contained in appendices 6 and 7 propose licence modifications to the standard conditions of the gas and electricity supply licences. The proposed licence modifications are set out in the table in Schedule 1 to each Notice.

4.6. The table in Schedule 1 to the Notice is in two sections. The first sections propose the removal of the existing standard licence conditions. The second section lists the proposed new obligation to be inserted into the licence.

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<sup>22</sup> The Authority will not be able to make the modification that is subject to the objection where: 20% or more of the relevant licence holders; or 20% or more of the relevant licence holders weighted according to their market share, have given notice of objection to the Authority (and not withdrawn it) by the relevant date (which cannot be less than 28 days after the date that the notice is published).

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4.7. Generally, the proposed modifications aim to omit or insert provisions on a condition by condition basis; but certain conditions are further broken down paragraph by paragraph (for example where they contain provisions which relate to discrete policy areas). Relevant licence holders under paragraph section 23(12) of the Gas Act 1986 and section 11A(10) of the Electricity Act may register their formal objection to any proposed modification, although it is open to any interested party to make representations.

4.8. Potentially, a blocked proposed modification may have an impact on other obligations in the licence or on the coherence of the overall set of standard conditions. In these circumstances, we will carefully consider whether to make any other proposed modification. The Authority is not obliged to make any modification or any group of modifications where the final consultation process has led to a proposal being blocked. In exercising its discretion, the Authority will have regard to all relevant considerations, including, in particular, its principal objective and wider statutory duties, the general aims of the Supply Licence Review and any impact on distinct policy areas.<sup>23</sup> The Authority cannot fetter its discretion and any decision made will be taken in the light of the relevant circumstances.

4.9. We would encourage relevant licence holders to let us know as soon as possible if they propose to object to any proposed modification. This way, we will be able to understand properly the nature of any objection and (given the extent to which the proposed modifications inter-relate) ensure that any objection is properly targeted so as not to jeopardise unintentionally any other modification. It should be noted that objections cannot be withdrawn after the final date set out in the Statutory Notices for objections to be submitted.

### **Impact of blocked proposals**

4.10. This section outlines the Authority's likely approach if faced with one or more blocked proposal. Specific examples are provided for illustrative purposes only. Where the impact of a blocked proposal is limited or minor, then the Authority would be likely to proceed with the unaffected modifications, and re-consult on revised proposals with a view to reaching agreement in that respect.

4.11. Where the impact of the blocked proposal is substantial but limited to a single and discrete policy area (for example, metering or vulnerable customers), the Authority would have to decide whether or not to:

- (a) proceed with the unaffected modifications and progress the blocked proposals by amendment and re-notification;
- (b) proceed with the unaffected modifications proposed within the discrete policy area and refer the totality of the affected modifications proposed in the discrete policy area as a single package to the Competition Commission; or
- (c) amend the proposals and issue a new notice for the entire package of modifications. A hybrid approach (where some existing SLCs are retained and some proposed new conditions are inserted) is arguably not in line with the

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<sup>23</sup> The Workgroups throughout the SLR process generally worked in distinct policy areas, for example in relation to metering issues or vulnerable customers.

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aim of the Supply Licence Review to ensure simplicity and consistency of style.

4.12. Where the impact of the blocked proposal (or proposals) is substantial and not limited to a single policy area, the Authority will consider whether the entire package of modifications could be progressed by amendment and re-notification or whether the entire package of modifications should be referred to the Competition Commission.

4.13. One of the aims of the Supply Licence Review has been to align the obligations placed on gas and electricity suppliers. Accordingly, the Authority would also have to consider how it would deal with the circumstance where, for example, a proposed modification to the conditions of the gas supply licence were blocked, but the equivalent proposed modification to the conditions of the electricity supply licence were not.

### **Assessing inter-relationships between proposals**

4.14. The degree to which proposed modifications inter-relate (either from a policy point of view or as a result of the way in which the proposed new conditions have been drafted) will be of relevance to our decision as to whether to go on to make those modifications which have not been blocked.

#### *Modifications to omit and insert provisions*

4.15. Where the proposed insertion of a new condition is blocked, the Authority is likely not to direct the omission of the corresponding existing SLC.

4.16. The correlation table attached to Schedule 3 of the statutory notice shows the link between the existing SLCs and the proposed new conditions. This table can be used to understand the effect of objecting to the proposed insertion of a new licence condition on the proposed omission of an existing SLC.

4.17. Using the electricity supply licence conditions by way of example, where the insertion of proposed new condition 12.1 is blocked, the Authority would not be likely to direct the omission of current SLC 16.1.

#### *Single, discrete modifications*

4.18. Discrete modifications, by definition, are not interdependent, so if one discrete modification is blocked, that will not render the making of another discrete modification any less practicable.

4.19. For example (again using the electricity supply licence conditions for illustrative purposes), if a blocking minority objects to the proposed modification which seeks to insert new conditions 12.2 and 12.3 only, the Authority could direct that all the proposed modifications be made *except* (a) the insertion of proposed new conditions 12.2 and 12.3 and; (b) the omission of existing SLC 18. We could then re-consult on a meter apparatus condition.

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*Multiple modifications operating together*

4.20. Some proposed modifications act together to consolidate existing freestanding obligations. This is the case, for example, with the modifications necessary to form a single new SLC 12 in the electricity supply licence.

4.21. For the purposes of SLC 12, the creation of the new condition is achieved by a number of separate modifications, namely:

- (a) the omission of existing SLC 7;
- (b) the omission of existing SLC 16(1);
- (c) the insertion of new condition 12.1;
- (d) the omission of existing SLC 17;
- (e) the insertion of new conditions 12.14 to 12.16;
- (f) the omission of existing SLC 18;
- (g) the insertion of new conditions 12.2 and 12.3;
- (h) the omission of existing SLC 53A(3);
- (i) the omission of existing SLC 53B(3);
- (j) the omission of existing SLC 53B(7);
- (k) the omission of existing SLC 54;
- (l) the insertion of new conditions 12.4 to 12.7;
- (m) the insertion of new conditions 12.8 to 12.13.

4.22. These modifications do not inter-relate (other than to the extent that the insertion of a new condition is related to the omission of an existing SLC). So, if a blocking minority objected to any one of the modifications inserting a new paragraph in new condition 12, it is likely that all modifications will be made *except* the modification objected to and the modification which relates to the omission of the corresponding existing SLC, with the effect of maintaining that existing obligation.

4.23. However, some conditions contain elements that inter-relate with other conditions (i.e. either from a policy point of view or as a result of the way in which the proposed new conditions have been drafted). If a proposal is blocked that is referred to by another proposed modified provision, that is likely to be treated as an objection to the modified provision that refers to the blocked proposal also.

4.24. Equally, if the insertion or omission of part of a condition that makes reference to another condition is blocked, that is likely to be taken as an objection to the insertion or omission of the other condition too (otherwise that condition might be preserved without its necessary frame of reference).

4.25. Again, using the electricity supply licence conditions for illustrative purposes, if the insertion of proposed new condition 26 were blocked, the Authority might direct that all the proposed modifications be made *except* (a) the insertion of proposed new condition 26; (b) the omission of existing SLC 26; (c) the omission of existing SLC 27; (d) the omission of existing SLC 37; and (e) the omission of existing SLC 38.

4.26. However, existing SLCs 26 and 27 set up the arrangements for records and reports on performance and codes of practice for the purposes of obligations

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contained in current SLCS 24, 25, 35, 36, 37, 38 and 39. Accordingly, if an objection were made which caused the Authority to retain existing SLC 26 and/or SLC 27, the Authority would at least have to consider retaining the whole of the existing regime in relation to such records, reports and codes, rather than inserting the proposed new conditions.

4.27. The Authority may not wish to implement the remaining modifications in such circumstances where it would result in the licences becoming more complicated since one aim of the Supply Licence Review is to *'make [the text] simpler and more in keeping with the style of the other proposed modified SLCs'*<sup>24</sup>

#### *Definitions*

4.28. A series of separate proposed modifications seek to remove each definition currently contained in SLC 1 of the gas and electricity supply licences on an individual basis. A series of separate proposed modifications seek to insert each proposed new definition into proposed new condition 1.2 of the electricity supply licence and proposed new condition 1.3 of the gas supply licence, again on an individual basis (see proposed modifications (4-124) and (254-331) in table 1, Schedule 1 to the section 11A Notice; and proposed modifications (3-100) and (238-309) in table 1, Schedule 1 to the section 23 Notice).

4.29. The effect of this approach is that a blocking minority objection to the insertion of a single proposed new definition or the omission of a single existing definition will not cause the modification of all definitions to fail.

#### *Re-numbering*

4.30. If any of the proposed modifications are not made, the Authority will make any appropriate adjustments to cross referencing or numbering or insert "not used" as may be appropriate without any further notice under the CLM scheme.

## **Consequential changes**

4.31. We have identified a number of consequential changes to other licences and industry codes that will require to be made if the proposals in this document are made.

#### *Gas Transporter Licences*

4.32. It is necessary to amend standard condition 9 and standard special condition A11 of the gas transporter licences by inserting a definition of "domestic supply security standards", to which those conditions refer. This definition is currently contained in standard condition 32A of the gas supply licence. As our proposal is to remove the obligation where this definition is used we consider that

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<sup>24</sup> Further Proposals, page 50

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it should be moved to the transporter licence. We consulted<sup>25</sup> on this proposal on 27<sup>th</sup> April 2007.

4.33. As we are proposing to amend the gas transporter licence we also consider that this is an opportune time to propose other modifications to certain conditions of the gas transporter licences. The proposed modifications are to ensure that references to the standard conditions of the gas supply licence in the transporter licences are consistent with the standard conditions of the gas supply licence as amended further to the Supply Licence Review.

4.34. For the avoidance of doubt, we do not propose to make any substantive changes to the provisions of the gas transporter licences. We intend to similarly update the cross references to other licence types when other modifications are proposed to their conditions and the opportunity arises.

#### *DCUSA*

4.35. A change has been proposed to the DCUSA (DCP 003) in line with our proposal in December that the obligations for electricity suppliers in standard condition 16.2, 16.3 and 16.4 might be removed from the licence condition. These deal with the requirements for suppliers to inform the relevant distributor where the supplier becomes aware that there has been damage or interference with metering equipment, electrical plant or lines. If these changes are not made we will need to consider whether the equivalent provisions should be omitted from the conditions of the electricity supply licence.

#### *MRA*

4.36. We are proposing to include obligations surrounding the use of objections in the standard conditions of the electricity supply licences. These are currently located in Clause 16 of the MRA. A proposed modification has been raised (MCP 0177) to remove those parts of Clause 16 that will be included in the supply licence to avoid duplication. Note that these proposals do not remove the governance by the MRA of the industry processes by which the objection process operates.

#### *The Electricity (Standards of Performance) Regulations 2005<sup>26</sup>*

4.37. In the event that the proposed modifications are made to the electricity supply licence, a consequential amendment will need to be made to the Statutory Instrument (SI) dealing with electricity standards of performance.

4.38. This because the definition of a 'relevant supplier' in that SI currently refers to "*an electricity supplier in whose licence Section D of the standard conditions of supply licences is in effect but only to the extent that the supplier is undertaking activities within its supply services area*"; and the definition of "supply services area" currently refers to "*...the area specified or described pursuant to standard*

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<sup>25</sup>

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=120&refer=Markets/RetMkts/Compl/SLR>

<sup>26</sup> SI 2005/1019

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*condition 3 of the standard conditions of electricity supply licences as incorporated in that electricity supplier's licence".*

4.39. We are proposing to remove condition 3 and Section D of the electricity supply licence (and with it, any categorisation within the supply licence that would distinguish an ex-PES supplier).

4.40. Accordingly, we propose to amend these definitions so that it is clear that the references to condition 3 and Section D are to that condition and section as they had effect on the date immediately prior to the proposed new conditions coming into effect. A consultation letter was issued on 1 June 2007 asking views on our proposed modification.

4.41. For the avoidance of doubt, these amendments will not make any substantive change to the provisions of the SI.

4.42. These modifications require the consent of the Secretary of State.

#### *Supply licence application regulations*

4.43. The Gas and Electricity Acts allow the Authority to make regulations for licence applications. The current Application Regulations set out the manner and form in which applications for licences (or modifications of an area or extensions or restrictions of licences) should be made and the fee payable for each type of application. In addition they specify the information that applicants must provide in order for us to consider an application

4.44. Ofgem issued a consultation document on 5 April 2007 "Gas and electricity licence applications – Application Regulations and Guidance Document"<sup>27</sup>. This document proposes a number of changes to these arrangements, some of which are required if the proposed changes to supply licences are implemented, for example, supply licence applicants would no longer have to provide details of proposed arrangements for compliance with licence conditions relating to codes of practice specified in SLC 27.

4.45. We are intending that the new application regulations will come into force on the date that the new licence conditions will be implemented.

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<http://www.ofgem.gov.uk/Licensing/Work/Documents1/Application%20Regs%20and%20Guidance%20Cons%20FINAL.pdf>

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## Appendices

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Appendix	Name of Appendix
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7	Notice of proposed modification to gas supply licence standard conditions
8	Amended proposals for electricity supply licence standard conditions
9	Amended proposals for gas supply licence standard conditions
10	Supplementary document for electricity supply licence standard conditions
11	Supplementary document for gas supply licence standard conditions

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## Appendix 1 - Consultation questions raised in the December consultation

1.1. The December consultation document sought views on the following questions.

CHAPTER: One

**Question 1.1** Do you agree with the proposals set out in this document and, in particular, with the proposed modifications to the standard conditions of gas and electricity supply licences by 23 February 2007?

**Question 1.2** Are there any system implications resulting from the proposed changes that should delay the implementation of the modified standard conditions past June 2007?

**Question 1.3** Are there any additional circumstances where you consider it appropriate to apply a sunset clause to an obligation, what the expiry date should be and whether the Authority should be able to extend that date?

CHAPTER: Two

**Question 2.1** Do you agree that Ofgem should not have a role in resolving disputes between suppliers and customers in respect of security deposits?

**Question 2.2** Do you agree with the proposed threshold for application of the obligations to offer a range of payments methods?

CHAPTER: Three

**Question 3.1** Do you agree that the rules on when a supplier may object to a customer transfer should be set out in the standard conditions of the electricity supply standard licence conditions rather than the MRA?

**Question 3.2** Do you agree with our proposal to remove the obligation for suppliers to provide the full contract terms to a domestic contract within five days of the customer entering into the contract?

CHAPTER: Six

**Question 6.1** Do you agree with our proposal to remove the requirement for meters to be inspected every two years?

CHAPTER: Seven

**Question 7.1** Do you agree with the proposal to remove current SLCs 16(2) to (4) if equivalent arrangements have been replicated in the DCUSA?

CHAPTER: Nine

**Question 9.1** Do you agree with our proposals for the regulation of PPMIP services?

CHAPTER: Ten

**Question 10.1:** Is the proposed new structure and drafting of the proposed gas and electricity supply SLCs clear and effective?



**Question 10.2:** Do you support the development of supplemental documentation to support the modified gas and electricity supply SLCs?

## List of Respondents

List	Name
1	Age Concern
2	BizzEnergy
3	British Energy
4	British Gas
5	Citizens Advice
6	CO-Gas Safety
7	Corgi
8	e.on
9	EDF Energy
10	Energy Action Scotland
11	Energy Efficiency Partnership for Homes
12	Energywatch
13	Fuel Poverty Action Group
14	Fuel Poverty Action Group
15	Good Energy
16	Health and Safety Executive
17	National Grid
18	NEA
19	Public Utilities Access Forum
20	RWE npower
21	Scottish and Southern Energy
22	ScottishPower
23	SP Transmission & Distribution
24	United Utilities
25	Wales & West Utilities

## Summary of Responses

1.2. Responses received by Ofgem which were not marked as being confidential have been published on Ofgem's website [www.ofgem.gov.uk](http://www.ofgem.gov.uk). Copies of non-confidential responses are also available from Ofgem's library.

1.3. The following is a summary of those non-confidential responses which were received.

## Responses to Chapter 1 – Overview

### General views on our proposals, use of sunset clauses and system implications.

#### *Views of suppliers*

1.4. The proposals were broadly welcomed by suppliers. British Energy commented that the establishment of a licensing regime that satisfies the principles of better regulation was clearly in the interest of market participants and GB consumers, and that the other licences should be similarly treated. They said that Ofgem's aim should be to remove itself from directly regulating the competitive sectors of the market leaving this to competition legislation.

1.5. British Energy and British Gas considered that sunset clauses could be used to accelerate the removal of regulations as markets become increasingly established.

1.6. British Gas did not consider that there were obstacles to implementing the proposed licence conditions, but said that they would wish to do further analysis on the final proposals. Good Energy noted that they would need to update the information provided to customers on pre-printed billing paper, update their website, review internal processes and review and possibly amend contracts to ensure they are compliant with the new arrangements. They asked for a transitional period. Other suppliers did not report any such issues with switching to the proposed licence conditions.

#### *Views of other respondents*

1.7. PUAFA expressed concern that Ofgem wanted to encourage self-regulation in preference to licence conditions. In their view, self-regulation should be considered as additional to licence obligations, rather than as an alternative. They did not support the use of sunset clauses in the provisions for vulnerable consumers. Instead, they argued that procedures already existed for the review of licence obligations when needed. NEA agreed and said that a review of licence conditions should be triggered by evidence that a review is warranted rather than by an arbitrary date specified in the licence condition.

1.8. Energy Action Scotland supported simplifying and making the licence conditions clearer and more easily understood but did not support the removal of any conditions that would reduce the level of protection for vulnerable customers. Ofgem, they said, must ensure that the move towards better regulation was not implemented at the expense of the fuel poor.

1.9. United Utilities supported the removal of redundant and unnecessary obligations and improving the drafting of the conditions that remain. They advocated a parallel review of the Distribution licences to achieve similar benefits in terms of clarity and ease of understanding. They warned that changing supplier obligations could directly add to the risks faced by customers and may also lead to an undesirable impact on other market participants that will eventually lead to higher costs or unsatisfactory outcomes for customers.

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*Ofgem's view*

1.10. We welcome the support for our proposals and that note that this has been a collaborative effort with substantial input from both the industry and customer representatives.

1.11. We note the comments raised by BGT and Good Energy on potential system implications of our proposals but consider that our proposed timetable is achievable for suppliers.

## **Responses to Chapter 2 – Duty to supply**

### **Security deposits**

*Views of suppliers*

1.12. Suppliers were generally supportive of the proposal to reduce the role of Ofgem in determining disputes over the use of security deposits. It was noted by SSE (and others) that the Energy Supply Ombudsman could be an effective way of resolving such disputes.

*Views of other respondents*

1.13. energywatch was concerned about reduced regulation for security deposits. They urged Ofgem to monitor suppliers' behaviour in this area including the number and nature of queries and complaints relating to security deposits and act decisively where consumers' interests were not being fully protected.

*Ofgem's view*

1.14. We continue to propose (as set out in the December consultation) to simplify the regulation of security deposits by removing the mechanism for Ofgem to resolve disputes. We continue to consider that this is an area that potentially could be dealt with through an industry ombudsman. However, for now, we consider that the retention of a test of "reasonableness" is appropriate.

### **Payment methods**

*Views of suppliers*

1.15. In December, we said that small suppliers should not have to offer a wide range of payment methods. Good Energy supported the 50,000 threshold. Bizz argued that this was "conservative".

1.16. Of the ERA suppliers, E.on and EDF agreed with the figure of 50,000. BGT said that the threshold should be set to 15,000 across each fuel for each corporate entity; npower suggested a definition based on €10m turnover. SSE and ScottishPower did not consider that the obligation was necessary, but expressed concern that the introduction of a threshold would distort competition.

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1.17. e.on said that the proposal for all payment methods offered to be available for the duration of the contract would stifle innovation.

*Views of other respondents*

1.18. CAB and EAS did not support the introduction of a threshold in respect of payment methods. NEA also did not support threshold but, if introduced, would want it set on a corporate, not licensee basis. energywatch said that the real benefit of competition for customer was choice. Therefore they considered that there was merit in finding a solution that removed some of the barriers to entry but retained as much customer choice as possible. Ofgem, they argued, should take swift and decisive action if consumers were not afforded the level of choice intended by the new rules.

*Ofgem's view*

1.19. We intend to take forward the proposal to introduce a threshold of 50,000 customers, under which a licensee will not be required by their licence to provide the specified methods of payment on request.

1.20. We discuss this issue more fully in paragraph 5 of Chapter 2 above.

1.21. We have received information from two suppliers on the costs involved in the initial setup and servicing of payment methods that supports the view that for new entrant or small suppliers, without a significant number of customers using these facilities, the costs are significant and may discourage new entrants to the domestic market.

1.22. We note the possible models identified by respondents, for example the use of turnover thresholds or the adoption of 'per corporate group' as a means of setting the qualification threshold but consider at this time that our proposal is appropriate. We note the concerns raised by some respondents that a 'per licensee' approach is open to abuse with suppliers acquiring numerous licensees to avoid passing the threshold. We do not consider that there is any significant risk that suppliers will act in such a manner but if there is evidence that they are doing so we will revisit this policy and take action.

1.23. We accept the point raised by e.on in respect of the duration of all payment methods offered to domestic customers. We have therefore modified the text of the proposed Condition 27.1 to make it clear that only the payment methods specified in Condition 27.1(a) and (b) are subject to the requirement that the payment method must be available for the duration of the contract.

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## **Responses to Chapter 3 – Domestic supply contracts, deemed contracts and objections**

### **Governance of electricity objection rules**

#### *Views of suppliers*

1.24. There was general support from suppliers for the relocation of the rules governing the circumstances when a supplier can object to a customer's transfer to another supplier from the MRA to the supply licence. Good Energy did not support this proposal.

#### *Views of other respondents*

1.25. Energy Action Scotland commented that the electricity supply licence was the appropriate place for regulating objections and would ensure a consistent approach across the industry to the objection rules and would align these with gas. energywatch also supported the proposal.

#### *Ofgem's view*

1.26. We remain of the view that the objections rules should be located in the electricity licence rather than the MRA and note that this view is widely shared amongst respondents.

### **Obligation to provide domestic contracts**

#### *Views of suppliers*

1.27. Suppliers supported the proposal to remove the obligation to provide contract terms to domestic customers within five days of entering into the contract. BGT said that the provision of a copy of the contract was adequately covered by the Association of Energy Suppliers (AES) Code of Practice for face-to-face marketing.

#### *Views of other respondents*

1.28. energywatch did not support the proposals to remove the obligation to provide a copy of the full terms of a contract within five days of entering into the contract. They said that Ofgem should monitor this area closely and to act immediately if consumers were not being provided with appropriate and necessary information.

#### *Ofgem's view*

1.29. We do not consider that the licence should require suppliers to provide contract terms to customers. An obligation will be retained to bring the principal terms of contracts to the attention of domestic customers before they enter into such contracts. In addition, the requirement to provide a copy of the terms of a contract is covered under consumer regulations and the AES code.

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## Responses to Chapter 4 – Customer information

### Energy efficiency advice

#### *Views of suppliers*

1.30. SSE agreed with the proposal to remove the obligation to prepare a code of practice on energy efficiency and redraft the obligation on suppliers to maintain, publish and provide energy efficiency information to domestic customers, free of charge. They also supported the removal of obligations in respect of non-domestic customers. BGT considered that the removal of the obligation to provide energy efficiency advice to non-domestic customers was a sensible recognition of the existing circumstances of those customers. Corporate customers they argued, where energy costs are a significant proportion of overall expenditure, are more likely to independently pursue energy efficiency information, for example from the Carbon Trust.

#### *Views of other respondents*

1.31. Energy Efficiency Partnerships for Home commented on the proposed obligation for domestic suppliers to provide information about the efficient use of energy. They supported the view of EAS that real customer awareness in connection with energy use can dramatically reduce energy demand at the household level. They said that there was a clear divide between energy information and energy advice. Advice is detailed, expensive to provide and must be delivered by appropriately trained individuals who are independent of the supplier. Information may be provided on the fuel bill or call centres. They considered that it was essential that suppliers continue to provide a well staffed free telephone information service and this should be part of the licence agreement. They noted that many customers were uncomfortable with using the internet, particularly those suffering fuel poverty.

#### *Ofgem's view*

1.32. We consider that obligation set out in the proposed new condition 30.2 dealing the provision of energy efficiency advice strikes the right balance. This is an area where many suppliers already do a great deal, prompted both by the interest that customers show in receiving such advice and the Energy Efficiency Commitment scheme. The proposed condition requires suppliers to provide information free of charge via their website and telephone. The information is required "to enable a Domestic Customer to make an informed judgment about measures to improve the efficiency with which he uses gas/electricity supplied to his domestic premises". This means that the information must be relevant to the customer's circumstances.

### Notification of price rises

#### *Views of suppliers*

1.33. Suppliers generally welcomed the flexibility that the proposed arrangements provided in how price changes are communicated. ScottishPower agreed with the proposal to allow notification by email and Short Message Service (SMS),

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although they felt that Ofgem had “missed an opportunity to remove the additional complexity and costs” related to unwinding price increases where the notification has been given after the price increase has been introduced. SSE commented that the proposals was a step forward, but suggested that the notification period should be extend to 65 days (from 60) to match the period for quarterly billing.

#### *Views of other respondents*

1.34. energywatch said that the solution appeared workable although consumers may not necessarily understand it as easily as Ofgem and suppliers believed. They said that consumers expect their supplier to provide clear information regarding price changes and the options that are available to them. Suppliers and Ofgem must ensure that consumers are not disadvantaged either by a lack of clarity or failure (at any point) of industry processes. PUAf said that suppliers should be able to notify customers of price rises by email when customers agreed to such an arrangement. For most customers it is important that suppliers notify them of price rises in writing through the post.

#### *Ofgem's view*

1.35. We consider that the proposals provide more flexibility for suppliers to manage unilateral changes to contracts and in particular, price increases. We have amended the notice period to extend it from 60 to 65 days as proposed by SSE. This is to allow supplier who are billing customers on a quarterly basis to use the billing cycle as the means to notify customers of a price increase. We remain of the view that; where a customer is notified after a price increase has been imposed, they terminate the contract within 10 working days and switch supplier, that the price increase should not be charged.

## **Responses to Chapter 5 – Vulnerable customers and codes of practice**

### **Gas safety information and free gas safety checks**

#### *Views of suppliers*

1.36. Centrica expressed concern that the current obligations to provide free checks already require a high standard of gas safety to be achieved, and that the proposals went beyond the present gas safety approach for rented accommodation. They considered that the free check in its current form coupled with general requirements under the Gas Safety (Installation and Use) Regulations 1998 already provided adequate checks for signs attributed to carbon monoxide emission. Centrica estimated that a test with a flue gas analyser (in accordance with the relevant British Standard) was likely to add around 20 minutes to each visit, or an extra £20 in labour costs. Extra one-off costs for purchase of the equipment (£450 per unit) and training costs (at £100 per agent) were also noted.

1.37. npower requested clarification on what the use of appropriate equipment would mean in practice and the extent of the test necessary in respect of the detection of carbon monoxide.

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1.38. SSE did not agree with the proposal to include carbon monoxide emissions checks as they said it was unlikely to have any real safety benefits. They noted that the production and measurement of spillage of combustion products depends on many transient factors which occur singly or in combination with others and are extremely unlikely to exhibit themselves on a snapshot basis when a test is carried out.

1.39. ScottishPower considered that gas safety advice should be a government responsibility. They said that Ofgem should recognise the significant voluntary initiatives such as their promotion of BSI approved audible CO detectors, at cost, to all their customers. ScottishPower did not believe that the introduction of new regulation in this area was proportionate, necessary or aligned to the principles of better regulation.

1.40. e.on considered it unsatisfactory that the proposals did not encourage suppliers to target subsidies on those customers at greatest risk. e.on referred to a subsidised price to eligible customers for a first check and an offer at cost for repeat checks. e.on did not consider it inappropriate for the licence to go into operational detail with regard to the scope of the test. e.on commented that using a flue gas analyser would increase the length of the test and cost of the required equipment.

#### *Views of other respondents*

1.41. HSE accepted that the existing checks could be better targeted to those most in need by revising the eligibility to those on means tested benefits. HSE shared Ofgem's concerns that the number of checks carried out annually by suppliers should not fall below 45,000. HSE also wanted the industry to provide checks at cost on a voluntary basis, particularly to those customers who had previously qualified for free checks. HSE drew attention to the Health and Safety Commission recommendation that the efficacy of flue gas analysers be reviewed by the proposed new gas registration body.

1.42. HSE welcomed the proposed information requirement to all customers, as their research found that 45% of those sampled had received no information on the risks of gas safety, including those of carbon monoxide poisoning. HSE also referred to the industry commitment for co-ordinated action to raise awareness on gas safety via an Industry Forum led by CORGI.

1.43. CORGI considered that reducing the number of customers eligible for free checks from 5 to 1 million did not appear to enhance gas safety. They argued that all consumers should be automatically eligible and then have the individual right to opt out. CORGI recommended that awareness of checks should be improved through wider publicity. CORGI wanted clarification on the specific type of carbon monoxide check that will be required.

1.44. energywatch was concerned about the proposed reduction in eligible customers from 5 to 1 million, and that Ofgem did not expect suppliers' performance to differ greatly than the existing number of checks carried out. energywatch and PUAF also considered that young children should be included. PUAF did not support restricting eligibility based on receipt of means tested benefits, as many of the most vulnerable customers do not claim the benefits to which they are entitled.

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1.45. NEA and PUAFA wanted further monitoring beyond the number of checks, to include the outcomes of checks and the level of charges. PUAFA considered that Ofgem should introduce obligations to ensure suppliers do increase take-up among eligible groups. NEA wanted an explicit requirement that a non-eligible customer on a means tested benefit is charged at cost for the check.

1.46. energywatch welcomed the proposed introduction of the information requirement, but were disappointed that advising customers of the sources of help when appliances were condemned had not been included. energywatch were also interested to know what encouragement Ofgem would be giving to suppliers to provide financial assistance to customers to help with replacement costs when appliances were condemned.

1.47. Age Concern supported the proposal to limit free gas safety checks to those PSR customers on means tested benefits. They also supported that customers on the PSR, but not on means tested benefits, should be offered checks at cost.

1.48. CO-Gas Safety objected strongly to not specifying what type of equipment should be used to test for carbon monoxide, as flue gas analysers were capable of testing air in a flue or in a room. They considered that without proper gas safety checks using proper equipment, all encouragement to seek checks could give rise to false reassurance and expose consumers to real dangers of being poisoned by carbon monoxide.

1.49. CO-Gas Safety, in response to our further consultation in April on the eligibility for free gas safety checks, expressed a preference for all customers on benefit to be included, but if not, for children under 18 to be included.

1.50. CO-Gas Safety welcomed the requirement to provide information to all customers, but had concerns that, if it was provided with bills, it would be thrown away by customers. CO-Gas Safety continued to press for a requirement for an industry levy to fund a high profile media campaign.

#### *Ofgem's view*

1.51. As mentioned in paragraph 2.31 of Chapter 2, we propose to extend the eligibility for free gas safety checks to include owner occupied households with a child under 5 years old. On the scope of the check we propose to align this with the annual landlord checks prescribed under the Gas Safety (Installation and Use) Regulations 1998.

1.52. We also propose to require suppliers to provide information to all domestic customers on gas safety as set out in our December consultation.

#### **Resetting of prepayment meters**

##### *Views of suppliers*

1.53. BGT agreed that the proposals to clarify supplier obligations to reset prepayment meters in a timely manner will further incentivise suppliers to remove redundant metering technology.

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1.54. ScottishPower believed that a 'one size fits all' solution to issues of resetting delay was not appropriate. They considered that the proposed requirement that the licensee "must take all reasonable steps to ensure that the meter is reset within a reasonable time" reflected a measured response to an important area of potential consumer detriment where a customer is supplied through a token PPM. However, they strongly believed that the proposed restriction on objections to customer transfers should only apply where the supplier had failed to recalibrate within a 12-month period. ScottishPower was concerned that these proposals could incentivise some customers to withhold access which would affect their ability to collect legitimate outstanding debt.

1.55. Good Energy disagreed with our proposals on PPM resetting, stating that it would disproportionately impact on small suppliers. They considered that smaller suppliers had fewer options than the big six suppliers about what level they can set prepayment recovery rates at because they did not always have their own individual tariff codes with a specific PPMIP.

*Views of other respondents*

1.56. NEA, PUA and FPAG considered that the simplest solution would be to require all suppliers to follow the lead of those which have volunteered not to charge increased prices until meters are reset. This will provide an additional incentive for suppliers to accelerate their programmes for replacing token meters. NEA also thought that there should be a ceiling on the proportion of any consequent debt which a supplier should be entitled to collect.

1.57. energywatch welcomed the obligation to inform consumers of the disadvantages of PPMs and expected to see the particular disadvantages of token meters being highlighted in the statement that suppliers must produce. energywatch was not convinced that the proposed licence condition to carry out resetting of meters in a "timely manner" would prohibit the practice of back-charging. They were disappointed that the proposed condition did not include a time limit for resetting following a price increase, and that the obligation would not be retrospective.

1.58. CAB considered that the proposal did not go far enough and had major reservations whether it had the teeth to protect customers.

*Ofgem's view*

1.59. As discussed in paragraph 2.47 of Chapter 2, we propose to include an obligation for the supplier "to take all reasonable steps to ensure that the meter is reset within a reasonable period of time" after a price change. In respect of blocking customer transfer requests, we have amended the drafting to recognise that some customers may be denying access. However, suppliers cannot prevent transfer requests where communication with customers has been poor and/or where they have made little effort to access the property and reset meters.

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**Meter moves***Views of suppliers*

1.60. Bizz Energy said that the licence conditions should simply refer to an obligation to address the issue for customers with special needs. Suppliers were then free to solve the problem in their own way.

*Views of other respondents*

1.61. National Grid supported the removal of the licence obligation to reposition meters to allow a disabled customer access to their gas supply, on the understanding that suppliers were still obliged to address the needs of disabled customers under the Gas Act and the Disability Discrimination Act ("DDA").

1.62. Wales and West Utilities highlighted that the Gas Act does not cover customers who are chronically sick or those who are of pensionable age. The Gas Act only requires that where a meter is moved for disabled customers then the transporter or supplier shall not charge the customer. There is no obligation to move the meter at the request of the customer and the Gas Act only applies to meters owned by the transporter or the supplier. The licence condition applies to the repositioning of meters, irrespective of ownership. Wales and West Utilities considered that the proposal seems to benefit suppliers and reduce or eliminate the ability of vulnerable customers to have a meter moved when required.

1.63. PUAf, NEA and FPAG argued that the obligation should be retained in the case of PPMs. PUAf also considered that this should be made available for all PPM customers, rather than the vulnerable only. PUAf and energywatch considered redress through the DDA is more expensive and cumbersome for consumers, and less likely to happen in practice than current rights to redress through licence condition.

1.64. energywatch also said that, in instances where elderly or frail consumers require a non-PPM to be moved, a sensible compromise may be for suppliers to be obliged to install, free of charge, remote display units.

1.65. Age Concern accepted that lower cost options such as quarterly meter reading or provision of remote display units may be an acceptable alternative, provided it was made quite clear in the supplier's information on the PSR that these other services were available.

*Ofgem's view*

1.66. We acknowledge the concerns expressed in relation to customers with PPMs. As discussed in paragraph 2.52 of Chapter 2, we propose to keep a narrow and targeted obligation in this area to address the issue of vulnerable customers who, through infirmity, cannot readily make payments through a prepayment meter.

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## Responses to Chapter 6 – Metering

### Two-year meter inspection

#### *Views of suppliers*

1.67. BGT said that they were committed to the removal or modification of the obligation to inspect meters to significantly reduce the existing burden on both suppliers and customers. In support of their view they noted that; there was now an effective Ombudsman Scheme, an end to back billing which formed part of the ERA Billing Code and that therefore the obligation was not needed to support customer billing. On safety they said that the ERA had submitted a Risk Assessment which indicated that all the evidence statistically and anecdotally suggested that the regimes for both fuels are inherently safe. On theft BGT noted that the ERA/ENA theft working group was expected to submit its recommendations to the theft incentives on industry participants later this month. On the rare occasion that meter tampering was found, BGT said that it was of such minor insignificance that it did not justify the securing of thousands of warrants per annum in order to force entry to customers' premises. BGT considered that the ERA recommendations on improvements to the theft incentives were likely to lead to a material increase in the performance of industry participants. Even a modest improvement in industry performance in this area, they argued, would lead to significantly greater theft detection and prevention than is currently offered by the current obligation to inspect meters.

1.68. BGT noted that some Distribution Network companies had suggested that there may be consequential impacts and risks falling upon them in relation to safety matters if there was a change to the existing supplier obligations in this area. BGT said that this was for the network operators to address individually via their own operating plans and was not a good reason for maintaining unnecessary obligations on suppliers. BGT added that the requirement to inspect meters caused dissatisfaction and, in some cases, distress for their customers.

1.69. e.on supported removing the requirement for meters to be inspected every two years. However, their view was that customer safety was of prime importance. They also recognised the interests of third parties, such as distributors, suggested that the supply licence should include an obligation for the supplier to have a 'duty of care' in respect of meters and said that Ofgem should have a role in monitoring suppliers' policies on metering and cut-out safety.

1.70. EDF Energy said that the ERA study had confirmed that the public safety risk arising from meter installation was negligible and that mandatory meter inspections of the type required by the current licence obligation provide a vanishingly small contribution to maintaining consumer safety. They identified two options. Firstly, suppliers should be under a licence obligation to visually inspect the meter and associated equipment for signs of deterioration, damage and interference whenever their representatives visit consumer premises to read, reset, or replace the meter. Secondly, their preferred option was for the licence to place a general duty of care on the licensee for the safety and physical integrity of the meters and metering equipment. EDF Energy considered that such an approach was consistent with the principles of better regulation and with the HSE's and the DTI's preferred approach to safety.

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1.71. npower considered that the obligations could be removed in the case of electricity, as issues relating to theft and tampering were being dealt with elsewhere.

1.72. SSE said that the public safety risk arising from gas and electricity meter installations at customers' premises was negligible and that retaining a mandatory obligation to inspect the meter provides an extremely small contribution to consumer safety. SSE noted that there is a suite of other relevant safety regulations which suppliers are required to comply with, such as the ESQCR, the Gas Safety (Management) Regulations, the Gas Safety (Installation and Use) Regulations and the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (1995). They proposed that the obligation to inspect meters should be removed and replaced by a general duty requiring suppliers to act responsibly, based on their own assessments of risk, cost and proportionality. The licence condition should not prescribe how this should be done, in keeping with better regulation principles.

1.73. ScottishPower did not agree. Their view was that there remains a lack of convincing industry data/evidence currently available to support the removal of the obligations. Without further evidence at this time they said that the most appropriate course of action would be to maintain the existing licence obligation, although they suggested that a case could be developed for a derogation in respect of smart meters.

1.74. British Energy did not support the removal of the obligation. They were concerned about the effects on customer billing and issues associated with energy settlement and data quality had not been fully addressed. In addition, the general issue of future metering and billing arrangements was currently being considered as part of the Government's review of energy policy. This, they argued, was clearly an area where regulatory policy and the overall framework of Government energy policy needed to be consistent. Consequently, they did not consider the time was right to remove this obligation.

#### *Views of other respondents*

1.75. Wales and West Utilities said that the obligation was primarily a safety issue and the continuation of the obligation should be assessed solely on these grounds. There is a corresponding standard special condition (A10) of the transporters licence which requires transporters to notify shippers when inspections are due. If Ofgem removes the supplier's licence obligation then it should also remove the corresponding transporter obligation.

1.76. National Grid supported the obligation being retained until suitable arrangements are put in place with regard to safety, theft and energy settlement. They said that they were waiting for confirmation of the next steps to be taken by the ERA and Ofgem and were hopeful that work would provide a solution that was acceptable to all parties, including the HSE. National Grid recognised that removing the obligation to inspect and read meters at least every two years would aid the cost/benefits case for smart meters. They noted that safety of the public was paramount, and that if the HSE did not support the removal of the obligation, then it should continue within the supplier licence.

1.77. United Utilities said that the proposed removal of the obligation to inspect meters was their area of greatest concern with the SLR proposals. They argued

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that suppliers did not bear the full consequences of any neglect of their duties to visit and read meters regularly. They were sceptical of suppliers approach to revenue protection. This obligation, they argued, was the one measure that currently existed to ensure that suppliers visited customers' premises regularly. They argued that a more vigorous approach to enforcement of the obligation by Ofgem would help to establish its effectiveness as a revenue protection device. They reflected that there was a perception that the obligation may frustrate the implementation of smart metering and agreed that further consideration is needed of the effectiveness of smart meters as an alternative deterrent to interference. However, their view was that this effect of smart meters was unproven.

1.78. CAB and Energy Action Scotland disagreed strongly with the proposal to remove the requirements in SLC 17 to inspect and read meters at least every two years due to concerns about the accuracy of customer bills. CAB said that Ofgem's eagerness to rely on the implementation of the restrictions on back billing supported by the Energy Supply Ombudsman was premature and they had no confidence that these developments would produce the intended results. However, they noted that smart meters could be excluded from the need to comply with the obligation thereby giving stronger incentives to suppliers to install smart meters.

1.79. Fuel Poverty Action supported the proposals, considering it highly unlikely that there would be material safety issues, and thought it unlikely that this is a sensible way of spending money on safety. They argued that the obligation hindered the case for smarter meters. They hoped that Ofgem would play a proactive role on this issue in discussions with the HSE. They considered that the estimate of an extra £2.5m expenditure for each DNO to undertake inspections of meters to be "extraordinary" and said that there should be no allowance for this without concrete evidence.

1.80. energywatch said that as they were yet to see an impact assessment relating to the removal of the two year meter inspection it was difficult to agree or otherwise with the proposal. Ofgem, they said, would need to consider the impact assessment along with the proposals in the recent DTI/DEFRA consultation on energy billing and metering.

1.81. CORGI suggested that meter inspections could be improved if meter readers were given extra awareness training. They were concerned that where a meter was exchanged, the installation may not always be brought up to the required standard.

#### *Ofgem's view*

1.82. As discussed in Chapter 2, we have concluded that an obligation to inspect meters should be retained, as the case for change has not been clearly made. We remain of the view that a licence obligation determining a periodic inspection of the meter and associated installation may be disproportionate to the risks, but we would need a well evidenced case to support a major change to the obligation. We have sought to leave the door open to industry to make that case, by including in the proposed new condition 12 that the Authority could consent to a derogation from the obligation. Such a derogation would be unlikely to be given without consultation with all stakeholders including the HSE.

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## Responses to Chapter 7 – Industry codes and agreements

### Procedure for informing distribution companies of theft or damage

#### *Views of suppliers*

1.83. British Energy, BGT, e.on and SSE supported the proposal to relocate the obligations on electricity suppliers<sup>28</sup> to inform distributors where damage or interference with metering installations is found to the DCUSA. BGT agreed and said that such operational requirements should be in the DCUSA rather than the licence. SSE suggested that if the DCUSA modifications have not been made in time, a sunset clause could be used.

#### *Views of other respondents*

1.84. United Utilities did not consider there to be any overwhelming advantage of removing licence obligations just to put them in other industry governance documents and there was a clear disadvantage in that enforcement would be less certain. They therefore did not support the proposals. energywatch said that it was difficult to comment but noted that this area would be subject to Ofgem's review of the theft arrangements.

#### *Ofgem's view*

1.85. A proposal to modify the DCUSA has been to be raised (DCP 003) to place equivalent obligations in the DCUSA. If this change is not made to the DCUSA, then we would not remove the corresponding obligations from the electricity supply licence.

## Responses to Chapter 8 – Other licence conditions including SoLR

### Supplier of Last Resort (SoLR)

#### *Views of suppliers*

1.86. Suppliers generally supported the proposals. Some ERA suppliers reiterated their view that the SoLR should not be obliged to inform customers that they were able not bound by a contract and were free to switch to a new supplier.

#### *Views of other respondents*

1.87. energywatch noted their continued support for an obligation on a SoLR to inform customers that they are not bound by a contract.

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<sup>28</sup> Standard Condition 16 (2), (3) and (4) of the Electricity Supply Licence

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*Ofgem's view*

1.88. We continue to consider that it is appropriate for there to be an obligation for a SoLR to inform a customer that they are free to switch suppliers. These are exceptional circumstances and we believe that customers must be informed fairly of their options.

**Undertaking to Relevant Gas Transporters***Views of suppliers*

1.89. npower noted that the proposed Condition 18 (18.4) requiring the supplier to make new shipping arrangements, that the licensee must "take all steps within its power to ensure". They argued that this was a more severe requirements than the current obligation (SLC 22B 10) that uses the term "shall use its best endeavours to secure".

*Views of other respondents*

1.90. National Grid, supported by the Energy Balancing Credit Committee proposed clarification to the proposed new 'Condition 18. Undertakings to Relevant Gas Transporters'. This was aimed at clarifying that the supplier is obliged by the undertaking given to the Gas Transporter to provide appropriate security as well as pay charges in respect of the gas the supplier's customers are taking out of the Gas Transporters network.

*Ofgem's view*

1.91. We have amended the drafting of the proposed Condition 18 of the Gas Supply licence to make clearer that the undertaking to be provided by the supplier includes the requirement to provide security cover and pay the relevant charges as if the arrangements had continued as if the supplier was the gas shipper. In response to npower's point in respect of proposed Condition 18.4, we have proposed that the licensee "must take all reasonable steps" in place of the original drafting. This aligns with the drafting used throughout the licence conditions.

**Responses to Chapter 9 – Ex-monopoly supplier obligations****PPMIP services***Views of suppliers*

1.92. Good Energy strongly disagreed with our proposals to remove regulation for PPMIP services provided by ex-monopoly electricity suppliers. They considered that the PPM market was not sufficiently competitive for regulation to be reduced; the exception would be if suppliers were not required to supply or to offer terms to customers with PPMs. The deregulation of meter operations, they argued, had demonstrated that companies may withdraw from meter services where they were permitted to do so. The inherent complexities and costs of the PPM market would mean that several suppliers may withdraw from acting as a

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PPMIP if they were permitted to do so. This would leave many vulnerable consumers in a position where it is difficult or disproportionately expensive to transfer from the host-PES. They said that it was not possible for a supplier to establish ownership of the meter before gaining it through the change of supplier process. Therefore, the additional costs of replacing such meters would be borne by prepayment meter customers, which are generally the most vulnerable consumers.

1.93. Biz Energy, said that any proposal to remove the obligations for ex-monopoly suppliers to provide essential services, was a concern. They viewed PPMIP arrangements as an essential service and said that, in their view the market was not sufficiently mature to remove the current obligations.

1.94. British Gas supported the proposal, in particular, the need to only maintain obligations on the ex-monopoly electricity suppliers for tokens for a transitional period and cards with a two year disapplication clause. Their view was that the proposals struck a balance between removing obligations where competition had been established (key meters), whilst maintaining obligations (token and card meters) where services were dependent on the provision of PPMIP services by the ex-monopoly electricity suppliers in-area.

1.95. e.on argued that the sunset clause for the removal of regulation for token and smart-card PPMs should be changed to permit the removal of the obligation earlier on request from the supplier.

1.96. ScottishPower agreed with Ofgem's proposals in relation PPMIP services for token, smart card and key meters but considered that the notice period allowed for the Authority to require that a PPMIP service for smart-cards should be maintained be increased from 3 to 6 months so that suppliers had more time to alter their internal systems and strategies to maintain the service.

1.97. SSE supported the proposals, but was concerned that there was no proposal to introduce licence obligations to ensure interoperability of PPM services were smart meters to be introduced in both gas and electricity.

#### *Views of other respondents*

1.98. energywatch agreed with the proposals. FPAG noted that it was essential that suppliers of customers with PPM meters should have access to the necessary services at a reasonable cost and that Ofgem should continue to monitor the position.

#### *Ofgem's view*

1.99. We maintain the view set out in the December consultation that the removal of the current obligations to provide PPMIP services is appropriate. Key PPM meters continue to be adopted as a standard in Great Britain and suppliers are targeting the removal of token meters. The emergence of national providers of PPMIP services reinforces the view that regulation through the licence is not necessary. We recognise that the provision of PPM meters is a complex and costly activity for small suppliers, but consider that the introduction of the disapplication threshold for payment methods will help these suppliers.

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1.100. We consider the time periods in the sunset clauses to be appropriate in balancing the need for certainty for market participants and flexibility in assessing changing market conditions.

1.101. We also note the work being carried out by the industry to adopt common standards for smart meters. At this stage it is not clear as to whether these standards need to (or should be) supported by licence conditions, or whether this can be dealt with through the available industry governance mechanisms.

## **Responses to Chapter 10 – Framework for proposed modified standard conditions**

### **Standard conditions and Supplementary documents**

#### *Views of suppliers*

1.102. British Energy stated that the drafting of the proposed standard conditions had been simplified and the proposed obligations were now much clearer and concise. They supported Ofgem publishing supplementary documentation to provide further transparency within the licensing regime.

1.103. SSE considered that the drafting of each licence condition had been simplified to ensure they were clear. They therefore questioned the need for further guidance. They requested that Ofgem make a clear statement within the text of the supplementary documents that they had no legal standing. Good Energy strongly supported the supplementary documents as an aid to interpretation.

#### *Views of other respondents*

1.104. energywatch considered that the proposals set out a more modern, streamlined licence that would reduce the burden on suppliers. They said that the improved clarity and harmonisation between licence conditions should make for easier interpretation. Ofgem, they said, must monitor whether the new drafting was working at some point over the next two years. With the changes to consumer representation, they argued, it was essential that the regulator, with a statutory duty of protecting the interests of consumers, took care to ensure that these new proposals were being adopted and implemented in the way they were intended. energywatch recommended that Ofgem established a risk register of all the potential risks associated with the changes to the licence conditions, particularly those which will rely on self regulatory schemes or general consumer law. energywatch argued that the supplementary guidance should be designed for non-lawyer users within the energy industry and should be couched and worded appropriately.

#### *Ofgem's view*

1.105. We welcome the support for the improved clarity that our proposals bring to the drafting of the supply licence conditions. We also welcome the support for the supplementary documents which we have presented in this document in appendices 10 and 11. We have clarified the legal status of the supplementary documents, as requested by SSE, within the text of these documents.

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## Appendix 2 – The Authority’s Powers and Duties

2.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority (“the Authority”), the regulator of the gas and electricity industries in Great Britain. This Appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

2.2. The Authority's powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Act 2004, as well as arising from directly effective European Community legislation. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.<sup>29</sup>

2.3. Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This Appendix must be read accordingly<sup>30</sup>.

2.4. The Authority’s principal objective when carrying out certain of its functions under each of the Gas Act and the Electricity Act is to protect the interests of consumers, present and future, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

2.5. The Authority must when carrying out those functions have regard to:

- The need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
- The need to secure that all reasonable demands for electricity are met;
- The need to secure that licence holders are able to finance the activities which are the subject of obligations on them<sup>31</sup>; and
- The interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.<sup>32</sup>

2.6. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

- Promote efficiency and economy on the part of those licensed<sup>33</sup> under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- Protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity;

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<sup>29</sup> entitled “Gas Supply” and “Electricity Supply” respectively.

<sup>30</sup> However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

<sup>31</sup> under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Act in the case of Electricity Act functions.

<sup>32</sup> The Authority may have regard to other descriptions of consumers.

<sup>33</sup> or persons authorised by exemptions to carry on any activity.

- Contribute to the achievement of sustainable development; and
- Secure a diverse and viable long-term energy supply.

2.7. In carrying out the functions referred to, the Authority must also have regard, to:

- The effect on the environment of activities connected with the conveyance of gas through pipes or with the generation, transmission, distribution or supply of electricity;
- The principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- Certain statutory guidance on social and environmental matters issued by the Secretary of State.

2.8. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation<sup>34</sup> and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

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<sup>34</sup> Council Regulation (EC) 1/2003

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## Appendix 3 - Glossary

### A

#### Authority

The Authority is the governing body for Ofgem, consisting of non-executive and executive members.

### B

#### Back Billing

Back billing is the practice of charging a consumer for the costs of energy previously unbilled for a year or more. The circumstances may arise from a failure to issue a bill, or because no meter reading has been taken and billing has been done based on estimates that proved to be too low or through some other error. The ERA suppliers have undertaken to cease back billing for periods of more than two years from July 2006 and for periods of more than one year from July 2007.

### BSC

Balancing and Settlement Code

### C

#### CAB

Citizens Advice Bureau

#### CSR

Corporate Social Responsibility

#### CUSC - Connection and Use of System Code

The contractual framework for connection to, and use of, National Grid's high voltage transmission system.

### D

#### DDA

Disability Discrimination Act 1995. Link to the Department of Work and Pensions website: [http://www.dwp.gov.uk/aboutus/dda\\_2005.asp](http://www.dwp.gov.uk/aboutus/dda_2005.asp)

#### Deemed contract

The Electricity Act and the Gas Act, provide that where a supplier supplies gas or electricity to premises (electricity) or a consumer (gas) otherwise than in pursuance of a contract, the supplier shall be deemed to have contracted with the consumer for the supply of gas or electricity from the time when he began to supply that gas or electricity. Typically a deemed contract will occur where a

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customer moves into a new property and has not agreed contractual terms with a supplier who is supplying energy to that property or where a fixed term contract expires and the contract continues after that date.

#### [DCUSA – Distribution Connection and Use of System Agreement](#)

This agreement provides a single centralised document which relates to the connection to and use of the distribution networks.

#### [DN \(or DNO\)](#)

Distribution Network (Distribution Network Operator)

#### [DTI](#)

Department of Trade and Industry

#### [DWP](#)

Department of Work and Pensions

#### **E**

#### [EEC - Energy Efficiency Commitment](#)

The Energy Efficiency Commitment requires gas and electricity suppliers to achieve targets for the promotion of domestic energy efficiency in Great Britain.

#### [Electricity Act](#)

Electricity Act 1989 as amended.

#### [The Electricity \(Standards of Performance\) Regulations 2005](#)

A Statutory Instrument that prescribe the sum which suppliers or electricity distributors must pay to a customer by way of compensation for failure to meet specified standards of performance in respect of the services to be provided by such suppliers or distributors. The sum payable differs between domestic and non-domestic customers, and between standards.

#### [ENA - Energy Network Association](#)

Trade association open to owners and operators of energy networks in the UK. Membership includes CE Electric UK, Central Networks, EDF Energy, National Grid, Northern Ireland Electricity, Scottish and Southern Energy, ScottishPower energy Networks, United Utilities, and Western Power Distribution.

#### [Energy Service Directive](#)

DIRECTIVE 2006/32/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 April 2006 concerning common rules for on energy end-use efficiency and energy services and repealing Directive 93/76/ECC.

#### [Energy Supply Ombudsman](#)

Independent body, established by the ERA, that resolves disputes between a customer and their energy supplier associated with billing and transfer issues.

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Ombudsmen are an independent and impartial means of resolving disputes outside the courts and the Energy Supply Ombudsman. <http://www.energy-ombudsman.org.uk/>

#### [energywatch](#)

energywatch is the Gas and Electricity Consumer Council set up under the Utilities Act 2000 to represent the interests of gas and electricity consumers. Link to the energywatch website: <http://www.energywatch.org.uk/bst/index.asp>

#### [ERA - Energy Retail Association](#)

The Energy Retail Association is a trade association representing the interests of the six major domestic energy supply companies - British Gas, EDF Energy, npower, E:ON, ScottishPower, and SSE.

#### [EU Directives \(Internal Market Gas Directive and Internal Market Electricity Directive\)](#)

Directives (IMED 2003/55/EC) and (IMGD 2003/54/EC) set out rules for the internal markets in gas and electricity, respectively. In particular, Annex A requires Member States to ensure that a number of consumer protection measures are transposed into domestic law including a wide choice of payment methods, and transparent, simple and inexpensive procedures for dealing with complaints.

#### [Exempt Supply Services](#)

SLC 53B(2) requires that any offer for the provision of exempt supply services must include detailed provision regarding:

- i) the making, maintenance and termination by the supplier of registrations under and in accordance with the Master Registration Agreement (MRA) and exchange of associated information between the supplier and the exempt supplier,
- ii) appointment of a provider of meters, metering equipment, meter maintenance services and the provision of data retrieval, data processing and data aggregation services,
- iii) apportionment and settlement of registration charges,
- iv) reimbursement by the exempt supplier (by way of indemnity) of registration charges,
- v) provision of reasonable security or collateral for performance of obligations under the agreement, and
- vi) varying the agreement.

## **F**

#### [Fuel Direct](#)

This is the scheme administered by the Department of Work and Pensions to allow for payment by eligible customers to gas and electricity suppliers from sums which are deducted at source from social security benefits.

#### [FSC - Fuel Security Code](#)

The FSC covers arrangements when the Secretary of State calls a Fuel Security Period (a power under the Electricity Act). In these circumstances, he can ask for certain generation types to preserve fuel (i.e. not generate) or switch to alternative back-up fuels. This is an interventionist power that is only likely to

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be used in extreme circumstances. The FSC sets out how these instructions will be carried out and how parties will be compensated for doing things they otherwise would not have done.

## **G**

### [Gas Act](#)

Gas Act 1986 as amended.

## **H**

### [HSE](#)

Health and Safety Executive.

## **I**

### [ICCR](#)

The Industry Codes Compliance Review. Ofgem is reviewing the relationship between the obligation in the various classes of licence and the industry codes and agreements to which they refer. In particular, the review will consider the appropriateness of licensees being obliged by the licence to comply with the provisions of codes and agreements. Ofgem has published a consultation document on the scope of the project 'Industry Codes Compliance Review Consultation'

[http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/15594\\_ICCR\\_Co\\_ndoc\\_FINAL.pdf?wtfrom=/ofgem/index.jsp](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/15594_ICCR_Co_ndoc_FINAL.pdf?wtfrom=/ofgem/index.jsp)

### [IGT](#)

Independent Gas Transporter

### [IMED](#)

DIRECTIVE 2003/54/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC.

### [IMGD](#)

DIRECTIVE 2003/55/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC.

## **M**

### [MAM](#)

Meter Asset Manager

### [MPRN -Meter point reference number](#)

A unique number provided by a gas transporter, identifying a gas supply point.

### [MRA – Master Registration Agreement](#)

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This agreement, along with its associated documentation, sets out the inter-operational arrangements that support the processes for the registration of a change of electricity supplier in the UK retail market.

## O

### [Ofgem Approved Meter Installer \(OAMI\)](#)

Ofgem Approved Meter Installers (OAMI's) are CORGI registered gas meter fitters with a specific Meter Installation Qualification. OAMI's sign up to the Ofgem Codes of Practice 1/a, 1/b and 1/c depending on what work they intend to do. The codes set out the processes that the meter fitter must undertake to install a meter. The OAMI scheme (run by Corgi) ensures that the meter fitter is trained to the relevant CoP standard to undertake a meter installation. Therefore if a meter fitter is competent at the CoP/1a level only then it cannot install a meter with a capacity exceeding 6m<sup>3</sup>. These CoPs are updated/reviewed by Technical and currently CoP/1c is being reviewed.

## P

### [Prepayment meter \(PPM\)](#)

Prepayment meters currently use electronic tokens, keys or cards to enable an amount of energy bought by the consumer to be used. The consumer needs to be provided with a network of outlets where tokens can be purchased, or cards and keys can be charged up. This network of outlets needs to be linked to a payment settlement system for suppliers.

### [Prepayment Meter Infrastructure Provider \(PPMIP\)](#)

The PPMIP services must provide, as may be reasonably appropriate, for prepayment meters which require tokens, cards or keys for their operation, facilities for: (where requested) the purchase by electricity suppliers and/or encoding with data of tokens, cards or keys, the use by domestic customers of local outlets for the purchase of tokens and the crediting with value of cards or keys, the making of payments to electricity suppliers in respect of sums received by the licensee on behalf of domestic customers, and where relevant, the transfer of domestic customer data to electricity suppliers.

### [Priority Services Register \(PSR\)](#)

SLC37(3)(a) requires suppliers to establish a list (the Priority Services Register) of those domestic customers who, by virtue of being of pensionable age or disabled or chronically sick, require information and advice in respect of services specified under that condition.

## R

### [RPC – Relative Price Control](#)

Relative Price Control. A price cap on the charges that may be made by an Independent Gas Transporter that links charges to the local gas Distribution Network Operator.

## S

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### SLC - Supply Licence Condition

These are licence conditions that gas and electricity suppliers that have to comply with. Under the Gas Act 1986 and Electricity Act 1989, failure to comply with licence conditions can result in financial penalties and/or enforcement orders to ensure compliance.

### SLR - Supply licence review

This is a comprehensive review that we are carrying out of all supply licence conditions. New licence conditions are expected to be implemented in June 2007.

### SLR Steering Group

A committee chaired by Ofgem, made up of key stakeholders to review and advise on the progress and direction of the Supply Licence Review. Papers for the Steering Group may be found on the Ofgem website.

### SoLR - Supplier of Last Resort

The Authority may require a supplier under SLC 29 to accept appointment as a Supplier of Last Resort, to take over responsibility for a portfolio of supply points, where the previous supplier has had its licence revoked following insolvency.

### SPAA

Supply Point Administration Agreement. Industry governance agreement between domestic gas suppliers and gas transporters.

### Standby

"Standby" means the periodic or intermittent supply or sale of electricity:

- i) to an authorised electricity operator to make good any shortfall in the availability of electricity for the purposes of its supply of electricity to persons seeking such supply, or
- ii) to a customer of the supplier to make good any shortfall between the customer's total supply requirements and that met either by its own generation or by electricity supplied by an electricity supplier other than the supplier.

### Super complaint

Section 11 of the Enterprise Act 2002 enables designated consumer bodies such as energywatch to make a complaint to the Office of Fair Trading (or a relevant regulator), that any feature, or combination of features, of a market in the UK for goods and services is or appears to be significantly harming the interests of consumers. These complaints are called "super complaints".

### Supply licence exemptions

The Electricity (Class Exemptions from the Requirement for a Licence) Order 2001 provides that the supply of electricity need not be undertaken in pursuance of a licence in certain defined circumstances. The equivalent for gas are the Gas Act 1986 (Exemptions) (No. 1) Order 1996, the Gas Act 1986 (Exemptions) (No. 2) Order 1996, the Gas Act 1986 (Exemptions) Order 1999, the Gas Act 1986 (Exemptions) (No. 2) Order 1999 and the Gas Act 1986 (Exemption) Order 2005.

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**T****Top-up**

"Top-up" means the supply or sale of electricity on a continuing or regular basis:

- i) to an authorised electricity operator to make good any shortfall in the availability of electricity for the purposes of its supply of electricity to persons seeking such supply, or
- ii) to a customer of the supplier to make good any shortfall between the customer's total supply requirements and that met either by its own generation or by electricity supplied by an electricity supplier other than the supplier.

**U****Unfair Terms in Consumer Contracts Regulations 1999 ("UTCCR")**

The regulations protect consumers from unfair terms which are contained in standard contracts. For example, they protect consumers from any standard contract terms that reduce their statutory or common law rights and protect consumers from contract terms that try to impose unfair burdens on them over and above the obligations of the ordinary rules of law. A standard contract term is unfair if it causes a significant imbalance in the parties' rights and obligations arising under the contract, to the detriment of the consumer.

**V****Vulnerable customer**

Citizens who are disabled or chronically sick, of pensionable age, or living on low incomes.

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## Appendix 4 - Feedback Questionnaire

4.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

- Does the report adequately reflect your views? If not, why not?
- Does the report offer a clear explanation as to why not all the views offered had been taken forward?
- Did the report offer a clear explanation and justification for the decision? If not, how could this information have been better presented?
- Do you have any comments about the overall tone and content of the report?
- Was the report easy to read and understand, could it have been better written?
- Please add any further comments?

4.2. Please send your comments to:

**Andrew MacFaul**  
Consultation Co-ordinator  
Ofgem  
9 Millbank  
London  
SW1P 3GE  
andrew.macfaul@ofgem.gov.uk

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## Appendix 5 – Final impact assessment for gas safety checks and information

### Objectives

5.1. The objective of this impact assessment is to assess the effects of the proposed changes to the supply licence obligations in relation to the promotion of gas safety and the provision of gas safety checks. It is based on discussion and consultation with stakeholders, and takes into account the recent HSE research on carbon monoxide undertaken as part of its current gas safety review. It sets out the policy options that were considered in coming to our decision.

5.2. We have explored how we should target free gas safety checks and how and what information should be provided to ensure public awareness of gas safety issues. We have considered, amongst other things, the costs and benefits of four options to assess whether the proposed licence requirements would be proportionate and appropriate.

5.3. The modification of licence conditions is a function under Part 1 of the Gas Act 1986 and accordingly Ofgem has to act in accordance with its principal objective and general duties, which are set out in full Appendix 2.

### Current requirements and consultation responses

5.4. The proposals set out below to the licence requirements on gas safety checks and the provision of information were developed following consultation in July<sup>35</sup> and December<sup>36</sup> last year. As part of the December consultation, Ofgem included a draft impact assessment for gas safety checks and information.

### Eligibility for free gas safety checks

5.5. The current gas SLC 37(2)(a) requires suppliers to provide a free gas safety check on request at least annually for customers who are eligible for the Priority Services Register ("PSR")<sup>37</sup> provided that they are:

- not entitled to a free annual gas fittings check because they live in rental accommodation<sup>38</sup>; and
- are living alone or are living with others who are either eligible for the PSR or are aged under 18 years.

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<sup>35</sup> [http://www.ofgem.gov.uk/MARKETS/RETMKTS/COMPL/SLR/Documents1/14581-Supply\\_Licence\\_Review.pdf](http://www.ofgem.gov.uk/MARKETS/RETMKTS/COMPL/SLR/Documents1/14581-Supply_Licence_Review.pdf)

<sup>36</sup> [http://www.ofgem.gov.uk/MARKETS/RETMKTS/COMPL/SLR/Documents1/16507-217\\_06.pdf](http://www.ofgem.gov.uk/MARKETS/RETMKTS/COMPL/SLR/Documents1/16507-217_06.pdf)

<sup>37</sup> To be eligible for the PSR a customer must be either of pensionable age, chronically sick or disabled.

<sup>38</sup> The requirement applies where a gas fitting is not required to be inspected under an annual landlord check as required by the Gas Safety (Installation and Use) Regulations 1998 made under the Health and Safety at Work etc Act 1974

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5.6. In the July and December consultations we proposed to amend the requirement to provide gas safety checks so that they would only be free for a subset of these customers who are in receipt of a means tested benefit. The rationale for this proposal was to better target help at customers who need financial assistance as many of the people currently eligible may be able to afford to pay for these checks.

5.7. All respondents to the consultations have accepted that those who can afford to pay for checks should do so. Some consumer groups also wanted to see the eligibility for free checks extended to include all owner occupiers on benefits, or at least those with small children.

5.8. We received further evidence<sup>39</sup> which indicated that children are at an increased risk from carbon monoxide poisoning compared to adults. In addition children of pre-school age are also more likely to spend significant periods of time at home, and therefore more likely to suffer the consequences of dangerous appliances. On 20 April 2007<sup>40</sup> we published a further consultation letter (the April consultation) proposing to extend the eligibility (from that proposed in December) to include owner occupier households on means tested benefits with a child less than 5 years of age. In response to this letter, suppliers, most consumer groups and the HSE supported extending eligibility in this way.

5.9. energywatch in response to the April consultation advocated that the test must be carried out within a reasonable period of time after the request from the eligible customer.

### **Scope of the free gas safety check**

5.10. Currently in carrying out these checks suppliers (or their agents) must test safety of gas appliances and other gas fittings on the customer's side of the meter. The examination must be carried out by a person with appropriate expertise.

5.11. In the December consultation we proposed that the gas safety check should include a requirement "to test for carbon monoxide emissions using appropriate equipment". At that time the rationale for this was to ensure that the check was likely to detect any excessive levels of carbon monoxide.

5.12. Suppliers (in particular Centrica) in response to the December consultation argued that the proposed test for carbon monoxide emissions using appropriate equipment could have a significant impact on the cost of these checks. Centrica argued that the checks currently required by the licence provide adequate protection for the signs of carbon monoxide as anyone (including an operative carrying out a free gas safety check) in performing work on an gas appliance must comply with the Gas Safety (Installation and Use) Regulations 1998. They

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<sup>39</sup>

[http://www.dh.gov.uk/en/PublicationsAndStatistics/LettersAndCirculars/ProfessionalLetters/ChiefMedicalOfficerLetters/DH\\_4004524](http://www.dh.gov.uk/en/PublicationsAndStatistics/LettersAndCirculars/ProfessionalLetters/ChiefMedicalOfficerLetters/DH_4004524)

<sup>40</sup> <http://www.ofgem.gov.uk/MARKETS/RETMKTS/COMPL/SLR/Documents1/SLR%20-%20Eligibility%20for%20free%20gas%20safety%20checks%20-%2020%20April.pdf>

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Centrica also mentioned that these regulations also specifically refer to duties of landlords with respect to annual gas safety checks.

5.13. However, carbon monoxide interest groups have maintained that the check should include a specific test with a flue gas analyser, as visual checks may not be adequate to detect carbon monoxide.

### **Gas safety information**

5.14. The current gas SLC 37(2)(b)(v) requires suppliers to give, on request and where reasonably practicable and appropriate, to customers who are eligible for the PSR "advice on the use of gas, gas appliances and other gas fittings".

5.15. In the July and December consultations we proposed to broaden the information requirement so that suppliers are required to provide information to all customers (not just those eligible for the PSR) on:

- the dangers of carbon monoxide poisoning;
- the benefits of fitting a carbon monoxide alarm;
- advice on the use of gas appliances and fittings;
- the benefits of gas safety checks; and
- where to seek assistance if appliances are condemned as the result of a gas safety check.

5.16. The rationale for this was that the current information requirement is not specific and does not include reference to the dangers of carbon monoxide poisoning. As these dangers apply to all users we considered that it would be better to make all customers aware of the risks. In addition we considered that information should be provided to all customers on carbon monoxide alarms and on the benefits gas safety checks (whether at appropriate cost or free for qualifying customers) which can significantly reduce such risk.

5.17. HSE has supported our proposal to broaden the information requirement, particularly following its research which has shown a low awareness of carbon monoxide dangers see paragraph 1.23.

5.18. Some suppliers in response to the July consultation were concerned that providing gas safety information to a wider audience would increase the uptake of free checks which would lead to increased costs. Some suppliers in response to the December consultation, referred to voluntary measures by suppliers to raise awareness of carbon monoxide and to marketing carbon monoxide detectors at cost price.

5.19. Consumer groups have generally supported the proposal for gas safety information for all customers. energywatch in response to the December and April consultations mentioned the need for a requirement for suppliers to give advice on the sources of help at the time that an appliance is condemned, rather than just with the proposed annual information. CO Gas Safety has continued to argue for a high profile media campaign funded through an industry levy.

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## Key issues

5.20. In considering further who should be eligible for free gas safety checks and the wider dissemination of information on gas safety, we have considered, among other things:

- the level of risk faced by particular customer groups
  - the likelihood that a particular customer group will have dangerous appliances,
  - the likelihood that they will spend significant periods of time at home to suffer the consequences of dangerous appliances, and
- the costs to suppliers of providing these services.

### HSE comments, statistics and research

5.21. HSE statistics<sup>41</sup> show the number of fatalities from carbon monoxide poisoning in the owner occupier and rented sectors:

Year	Fatalities in owner occupied accommodation	Fatalities in rented accommodation	Not known	Total
1996/7	16	12	3	31
1997/8	15	13		28
1998/9	21	15	1	37
1999/0	8	18		26
2000/1	22	3		25
2001/2	15	7		22
2002/3	10	10		20
2003/4	8	2	1	11
2004/5	11	6	1	18
Total	126	86	6	218

<sup>41</sup> These figures mainly include piped gas but also include some bottled LPG.



5.22. We note for carbon monoxide poisoning that there is the potential for under-reporting of deaths as the real cause may not be detected at time of death/injury or at all. We also note the potential for long term injuries from carbon monoxide poisoning as well as fatality.

5.23. As part of HSE's gas safety review last year University College London carried out research on behalf the HSE<sup>42</sup> into carbon monoxide dangers in 597 homes<sup>43</sup>. The majority of this survey (90%) covered owner occupied homes. This survey indicated that<sup>44</sup>:

- 45% of homes had received no information on the dangers of carbon monoxide, and
- gas fires were found to be the appliance most likely to be rated as "Immediately Dangerous"<sup>45</sup> or "at risk" (26% of all gas fires), then cookers (7%), and boilers (5%).

Premises with at least one pensioner <sup>46</sup>	Benefit receiver	Number in group <sup>47</sup>	Immediately dangerous or at risk appliance on the premises
✓	✓	151	26%
X	✓	150	28%
✓	X	85	14%
X	X	208	22%

5.24. There is greater risk of longer periods of direct exposure with dangerous gas fires in living rooms than dangerous cookers, in addition a large proportion of boilers are "room sealed" to prevent exposure to carbon monoxide.

<sup>42</sup> <http://www.hse.gov.uk/gas/domestic/reviewreports.htm>

<sup>43</sup> The UCL research is a snapshot survey of 597 homes in the East and South of Greater London undertaken in the summer of 2006. The sample is not representative of the UK as a whole and the carbon monoxide risk assessment is subjective.

<sup>44</sup> <http://www.hse.gov.uk/press/2006/e06096.htm> HSE press release dated 2/10/06

<sup>45</sup> Under CORGI's Gas Industry Unsafe Situations Procedure "an Immediately Dangerous" appliance is one, which, if operated or left connected to a gas supply, is an IMMEDIATE danger to life or property. Broadly, these will be installations that fail tightness tests, appliances that fail spillage tests or appliances which have serious flueing and/or ventilation, or combustion deficiencies, when measured against the appliance manufacturer's instructions, British Standards or other relevant standards / guidance documents" and an "At Risk" appliance is one where one or more recognised faults exist and which, as a result, if operated, may in future constitute a danger to life or property.

<sup>46</sup> It should also be noted that the HSE's category of "premises with at least one pensioner on benefits" is not an exact match with our definitions. However, we consider it a reasonable proxy in our analysis

<sup>47</sup> There were 3 households out of 597 where the age was not recorded.

5.25. The HSE also provided further disaggregated statistics. This indicates that pensioners on benefits have the highest risk of an immediately dangerous gas fire in a living room.

Premises with at least one pensioner	Benefit receiver	Number in group <sup>48</sup>	"Immediately dangerous" gas fire in living room	"At risk" gas fire in living room
√	√	151	13.3%	2.00%
X	√	150	7.1%	5.9%
√	X	85	6.0%	3.3%
X	X	208	7.2%	4.8%

#### Further information provided by suppliers

5.26. In terms of understanding the effectiveness of the current gas safety check obligation the following information was provided by suppliers:

- 45,059 free gas safety checks were carried out last year,
- estimates on the percentage of faulty appliances found on checks varied between 1% and 10% (although some faults did not require immediate shut down of the appliance),
- the average estimated cost of each gas safety check was £52.50,
- most suppliers indicated that they would charge at cost if they were allowed to charge customers who could afford to pay, and
- most suppliers already provide information as "bill stuffers" on the dangers of carbon monoxide poisoning, often linked to the sale of carbon monoxide alarms.

### Options

5.27. The three main factors considered were:

- the eligible group of customers for a free gas safety check,
- the scope of the free gas safety check, and
- the gas safety information requirement.

5.28. Potentially there could be a number of different combinations of these factors. The draft impact assessment with the December consultation focused on four options. Option 4, which was a risk based approach on a case by case basis, was not explored further as there was not robust evidence at this stage to support this. Following comments to the December consultation we considered a

<sup>48</sup> There were 3 households out of 597 where the age was not recorded.

new option 4 which included children under 5 and aligned the check with the annual landlord check.

5.29. The four options are summarised below. Differences from the current obligations are shown in italics. The number of eligible customers in each group has been provided by DTI referring to the DWP 2004/5 Family Resources Survey<sup>49</sup> and is given in brackets in the second column below (all figures are approximate).

	Eligible customers	Scope of check	Information
Option 1 (current requirements)	Owner occupier households where all occupants are <sup>50</sup> : <ul style="list-style-type: none"> <li>- pensioners</li> <li>- disabled</li> <li>- chronically sick (5m customers)</li> </ul>	On the safety of gas appliances & other gas fittings on the customer side of the meter	For pensioners, disabled or chronically sick – advice on the use of gas, gas appliances and other gas fittings
Option 2	Owner occupier households <i>on means tested benefits</i> where all occupants are <sup>51</sup> : <ul style="list-style-type: none"> <li>- pensioners</li> <li>- disabled</li> <li>- chronically sick (1m customers)</li> </ul>	<i>A test for CO emissions using appropriate equipment</i>	<i>Annually for all customers:  <ul style="list-style-type: none"> <li>- dangers of CO poisoning</li> <li>- benefits of fitting a CO alarm</li> <li>- advice on the use of gas appliances &amp; fittings</li> <li>- the benefits of gas safety checks; &amp;</li> <li>- where to seek assistance if appliances are condemned.</li> </ul> </i>
Option 3	<i>All owner occupiers on means test benefits (1.7m customers)</i>		
Option 4	Owner occupier households <i>on means tested benefits</i> where (a) all occupants are <sup>52</sup> : <ul style="list-style-type: none"> <li>- pensioners</li> <li>- disabled</li> <li>- chronically sick, <i>OR</i></li> <li><i>(b) there is a child under the age of 5 (1.1m customers)</i></li> </ul>	<i>Align with annual landlord checks under the Gas Safety (Installation and Use) Regulations 1998</i>	

### Eligibility for free gas safety checks

5.30. Around 5m customers are currently eligible for free gas safety checks. Out of these around 45,000 checks were carried out last year. We have considered

<sup>49</sup> [http://www.dwp.gov.uk/asd/frs/2004\\_05/index.asp](http://www.dwp.gov.uk/asd/frs/2004_05/index.asp)

<sup>50</sup> The current requirement also includes as eligible households – all pensioner, disabled and chronically sick households where the other occupant is a child under 18. In practice this would be an quite exceptional scenario. But for clarity such qualification would also apply to such means tested customers in options 2 and 4 at (a).

<sup>51</sup> See 15 above

<sup>52</sup> See 15 above

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the question of whether this current eligibility is appropriately targeted in terms of risk as some of these customers could afford to pay for the check.

5.31. HSE in response to the July consultation commented that there should be free gas safety checks for the most vulnerable customers where there is an appreciable risk. HSE also stated that the current number of free checks represents a low percentage take up of the service. However, HSE accepted that not all current beneficiaries of PSR schemes need financial support for these services and that a more targeted approach may be appropriate.

5.32. Option 2 was our preferred option as proposed in our December consultation. Around 1 million households would be eligible under this option. This includes reference to "means tested benefits"<sup>53</sup> as a method for suppliers to be able to readily identify customers who would have difficulties in paying for gas safety checks. "Income related benefits" are incorporated within this definition as well as benefits available due to low capital assets.

5.33. Option 2 captures the group indicated in the HSE research with the highest risk of having an immediately dangerous gas fire in a living room (pensioners on benefits - see table I paragraph 1.25)<sup>54</sup>. We also note that the time period of exposure to a dangerous gas fire in a living room is likely to be longer than gas cookers (the second most dangerous appliance). Pensioners, disabled and chronically sick customers can also have mobility problems which would mean that they would be at home for significant periods of time. In the December consultation it was our view that these customers were more likely to be exposed to dangerous gas fires for longer periods of time.

5.34. Option 3 (all owner occupiers on benefits) is a broader group than option 2. This captures another group at increased risk of having dangerous appliances (i.e. customers on benefits who are not pensioners, disabled or chronically sick) although such customers may be less likely to be at home for long periods of time on a regular basis (unless they live with a child of pre-school age, see option 4). Option 3 together with the broader information requirement may reduce the incentive on suppliers to market free checks as effectively as possible if they are concerned about possible increases to their total costs. However, we note that the "pool" of eligible customers under this option is still significantly smaller than option 1 and relatively small increase from option 2.

5.35. Option 4 is more targeted in terms of risk. It captures all in option 2 as well as customers in receipt of benefits who live with children under the age of 5. As mentioned above children are at an increased risk from carbon monoxide poisoning compared to adults. In addition, we note that children of pre-school age (like pensioners, disabled and the chronically sick) are more likely to spend significant periods of time at home.

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<sup>53</sup> Current examples of means tested benefits are Pension Credit, Income Support, Housing Benefit, Council Tax Benefit and Jobseeker's Allowance (Income-based).

<sup>54</sup> It should also be noted that the HSE's category of "premises with at least one pensioner on benefits" is not an exact match with our definitions. However, we consider that the HSE research is a reasonable proxy in our analysis.

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### Scope of the free gas safety check

5.36. The current gas SLC 37(2)(a) (option 1) requirement to provide a free gas safety check<sup>55</sup> requires an examination of the “safety of gas appliances and other gas fittings on the customer’s side of the meter”.

5.37. In the December consultation we proposed to include a requirement that the free gas safety check includes a test for carbon monoxide emissions using appropriate equipment (options 2 and 3).

5.38. In response suppliers (in particular Centrica) expressed concern that the implied level of test required by this option could add significant costs to these checks. Centrica estimated that a test with a flue gas analyser (in accordance with the relevant British Standard) was likely to add around 20 minutes to each visit, or an extra £20 in labour costs. Extra one-off costs for purchase of the equipment (£450 per unit for 60 agents) and training costs (at £100 per agent) were also mentioned.

5.39. At this stage there is insufficient quantifiable evidence to estimate what the additional cost would be to test for carbon monoxide using appropriate equipment. In the December consultation we did not specify that a flue gas analyser is required for these checks, because flue gas analysers vary in their specification and capability and some appliances do not have a flue. Potentially other equipment may be appropriate to test for carbon monoxide emissions. We also understand that some suppliers use flue gas analysers for efficiency reasons when carrying out servicing contracts, as they could save time in carrying out the tests. Nevertheless, there is likely to be some additional costs on this issue for options 2 and 3 which we have referred to in the “impacts, costs and benefits” section.

5.40. Option 4 aligns the free gas safety check with the requirements for an annual landlord check under regulations 26(9) and 36(9) of the Gas Safety (Installation and Use) Regulations 1998. Option 4 therefore includes a requirement for a gas appliance to include an examination of:

- (i) the effectiveness of any flue;
- (ii) the supply of combustion air;
- (iii) its operating pressure or heat input or, where necessary, both; and
- (iv) its operation so as to ensure its safe functioning.

5.41. Discussion with HSE, and our own technical advice, has confirmed that the check under these regulations requires a series of examinations which would be likely to identify faults or conditions that may result in excess or unsafe levels of carbon monoxide emission.

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<sup>55</sup> On request for owner occupiers where all the occupants are pensioners, disabled or chronically sick, or where such customers are living with a child under 18.

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5.42. It should however be noted that options 2, 3 and 4 would not preclude the use of a flue gas analyser if the supplier considered that it was appropriate in the circumstances. We understand that some suppliers already use flue gas analysers for appliance servicing for efficiency reasons to avoid the need to “strip down” appliances.

### **Gas safety information**

5.43. The current requirement (option 1) does not specifically refer to the dangers of carbon monoxide poisoning and does not apply to all customers.

5.44. Options 2, 3 and 4 include the broader requirement to take all reasonable steps to provide the information, mentioned above at paragraph 1.15, free of charge to all customers at least annually, and to any customer who requests it. This is to ensure that all customers are made aware on a regular basis of the dangers and the means to reduce risks.

5.45. Some suppliers are concerned that broadening the information obligation will increase the uptake and hence total costs of providing free gas safety checks. We want to ensure that customers are made aware of specific safety issues and the benefits of gas safety checks, and note that the “pool” of customers eligible for free checks under these options would be much more focused than option 1 and targeted to those with the greatest need.

5.46. CO Gas Safety has continued to argue for a high profile media campaign funded through an industry levy. We note that the wider gas industry (suppliers, appliance manufacturers, and plumbing merchants) has started to work with CORGI to co-ordinate raising public awareness on carbon monoxide dangers. The outcomes of this co-ordinated approach will be reported to a cross government Ministerial Group.

5.47. Options 2, 3 and 4 will require information to be given, at least annually and on request, to customers on where to seek assistance if appliances are condemned as the result of a gas safety check. energywatch argued that this information should also be required at the time when the appliance is condemned. It is highly likely that customers will request advice at the time when appliances are condemned therefore suppliers will be required to provide information at that time. If a customer does not request this at that time, we would expect suppliers to provide this information without a licence requirement to do so.

### **Competition assessment**

5.48. As this is a safety related issue it is not expected that any of the options will have any impact on competition. Issues relating to new entrants are discussed under “small businesses” below.

5.49. A number of suppliers already provide differentiated gas servicing contracts or supply carbon monoxide alarms. It will be at the supplier’s discretion whether they would use a broader information requirement to promote these other products.

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## Impacts, costs and benefits

5.50. In this section we have assessed the impacts, costs and benefits of options 2, 3 and 4, compared to the "status quo" option 1. This has been carried out based on the responses of consumers and suppliers and HSE's research, using a mixture of qualitative and quantitative assessments. All figures in the table are approximate. In terms of aligning the free gas safety check with the requirements under the Gas Safety (Installation and Use) Regulations 1998 (option 4) Centrica has commented that there is already a need to comply with these regulations for anyone carrying out work on an appliance. As there is already a considerable degree of overlap with these regulations, we anticipate that suppliers will already have trained staff and will have relevant equipment to carry out the safety check. Therefore, we do not anticipate that this obligation will add significant costs.

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Criteria	Option 1 Status quo	Option 2 - Current eligibility limited to those on benefits - CO test with appropriate equipment - Broader info requirement	Option 3 - All owner occupiers on benefits - CO test with appropriate equipment - Broader information requirement	Option 4 - Current eligibility limited to those on benefits + owner occupiers on benefits with child under 5 - Align with landlord check - Broader info requirement			
		Impact compared to option 1 - (✓ positive, X negative, 0 neutral)	Impact compared to option 1 - (✓ positive, X negative, 0 neutral)	Impact compared to option 1 - (✓ positive, X negative, 0 neutral)			
<b>Environment</b>	None of the options have a significant impact on the environment						
<b>Security of supply</b>	None of the options have an impact on security of supply						
<b>Health and safety</b>		<p>Eligibility for free checks targeted at the group who have the highest risk of immediately dangerous gas fire in a living room.</p> <p>In addition this customer group captures certain customers (pensioners, disabled and chronically sick) who are more likely to suffer the consequences of dangerous appliances due to the amount of time they are likely to spend at home.</p>	<p>✓</p> <p>✓</p>	<p>Eligibility for free checks captures a broad group of at risk customers (although many in the group will not have the additional risk of reduced mobility)</p>	<p>✓</p>	<p>Eligibility includes those who have the highest risk of immediately dangerous gas fire in a living room (elderly) but also captures others as well.</p> <p>In addition this customer group captures certain customers (pensioners, disabled and chronically sick) who are more likely to suffer the consequences of dangerous appliances due to the amount of time they are likely to spend at home.</p> <p>It also covers children under 5 who are also at increased risk because of their age and</p>	<p>✓</p> <p>✓</p> <p>✓</p>



		Test for CO emissions using appropriate equipment	✓	Test for CO emissions using appropriate equipment	✓	the amount of time they are likely to spend at home.	✓
	Current information requirement insufficient to raise general public awareness of safety issues.	Broader information requirement potential to raise general public awareness on safety issues.	✓	Broader information requirement potential to raise general public awareness on safety issues.	✓	Align with landlord check – series of examinations likely to detect the signs of CO	✓
						Broader information requirement potential to raise general public awareness on safety issues.	✓
<b>Distributional effects</b>	Eligibility can result in some receiving free checks who could afford to pay and/or at lower risk.	Targeting those customers with highest risk who may not be able to afford to pay.	✓	Covers a broader group of customers who may not be able to afford to pay and many of whom are at the highest risk.	✓	Targeting those with higher risk who may not be able to afford to pay.	✓
<b>Size of eligible group</b>	<b>5 million</b>	<b>1 million</b>	X	<b>1.7 million</b>	X	<b>1.1 million</b>	X
<b>Small businesses</b>	Current requirement has negligible impact on new entrants. Their customer profiles generally do not include many customers of pensionable age, disabled or chronically sick.	There will a broader information requirement to all customers, but the additional cost of including such information with bills and/or other information requirements will be marginal.	0	There will a broader information requirement to all customers, but the additional cost of including such information with bills and/or other information requirements will be marginal.	0	There will a broader information requirement to all customers, but the additional cost of including such information with bills and/or other information requirements will be marginal.	0

		Likely to have a negligible impact on new entrants. Their customer profiles generally do not include many customers of pensionable age, disabled or chronically sick.	0	Likely to have a negligible impact on new entrants. Their customer profiles generally do not include many customers of pensionable age, disabled or chronically sick.	0	Likely to have a negligible impact on new entrants. Their customer profiles generally do not include many customers of pensionable age, disabled or chronically sick. While their profiles may be more likely to include low income families with small children there are only 100,000 eligible households in GB so the number any one small supplier will face is likely to be small	0
<b>Risks and unintended consequences</b>	If the status quo is continued some customers will continue to receive free checks who could afford to pay and who are lower risk. Such free checks should be better targeted where there is the highest risk.	Risk that some customers who currently qualify will not have a check carried out (elderly/disabled and chronically sick but not living on means tested benefits). Nevertheless these customers may be prepared to pay for the check.	0	Risk that some customers who currently qualify will not have a check carried out (elderly/disabled and chronically sick but not living on means tested benefits). Nevertheless these customers may be prepared to pay for the check.	0	Risk that some customers who currently qualify will not have a check carried out (elderly/disabled and chronically sick but not living on means tested benefits). Nevertheless these customers may be prepared to pay for the check.	0
		There is a risk given the decrease in the numbers of customers eligible that the numbers of checks could fall. There is a limited likelihood that free checks will	X	Less risk that the number of checks could fall. However, there is an increased likelihood that free checks will increase and that licensee will not market	X	Slightly less risk that the number of checks could fall. However, there is a minimally increased likelihood that we will see a small rise in the number of checks (based on increase in	X

		increase. If there is a significant increases then there is a risk that suppliers will not market free checks in the most effective manner and may also affect initiatives to help customers whose appliances are condemned.		free checks in the most effective manner and will have reduced initiatives to help if appliances are condemned.		pool of eligible people – see below). If there is a significant increases then there is a risk that suppliers will not market free checks in the most effective manner and may also affect initiatives to help customers whose appliances are condemned.	
<b>Costs and benefits</b>	Last year there were 45,059 checks at an average cost of £52.50. Therefore total industry cost was around £2.4m.	The eligible group would fall from around 5m to 1m. The broader information requirement is expected to increase the response rate from eligible customers (currently 1%). From recent discussions with one supplier on a separate voluntary initiative we estimate that the probable range of response rates would be between 3 to 5%. If 3% of those eligible had a free check there would be 30,000 checks a year, costing £790k <u>less</u> than at present. If 5% of those eligible had a free check there would	0	The eligible group would fall from around 5m to 1.7m. However, a broader information requirement is expected to increase the response rate from eligible customers (currently 1%). From recent discussions with one supplier on a separate voluntary initiative we estimate that the probable range of response rates would be between 3 to 5%. If 3% of those eligible had a free check there would be 51,000 checks a year, costing £310k <u>more</u> than at present. If 5% of those eligible	X	The eligible group would fall from around 5m to 1.1m. However, a broader information requirement is expected to increase the response rate from eligible customers (currently 1%). From recent discussions with one supplier on a separate voluntary initiative we estimate that the probable range of response rates would be between 3 to 5%. If 3% of those eligible had a free check there would be 33,000 checks a year, costing £667k <u>less</u> than at present. If 5% of those eligible had a free check there would be 55,000 checks per year, costing £487k <u>more</u> than at present.	0

		<p>be 50,000 checks a year, costing £260k <u>more</u> than at present.</p> <p>Likely to be some additional cost of testing for CO emissions using appropriate equipment although cannot quantify exact amount</p> <p>The additional cost of including the safety information with bills and/or other information requirements will be marginal.</p>	<p>X</p> <p>0</p>	<p>had a free check there would be 85,000 checks per year, costing £2.1m <u>more</u> than at present. Therefore, at both these response levels this option would cost more.</p> <p>Likely to be some additional cost of testing for CO emissions using appropriate equipment although cannot quantify exact amount</p> <p>The additional cost of including the safety information with bills and/or other information requirements will be marginal.</p>	<p>X</p> <p>0</p>	<p>As there is already a degree of overlap with the Gas Safety (Installation &amp; Use) Regulations 1998, suppliers will already have trained staff and relevant equipment. Therefore, clarifying the requirements under these regulations will not add significant costs.</p> <p>The additional cost of including the safety information with bills and/or other information requirements will be marginal.</p>	<p>0</p> <p>0</p>
<b>Total impact compared to option 1</b>			<p>✓</p> <p>✓</p>		0		<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>

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## Conclusions

5.51. Based on the information we have received from HSE, suppliers and consumer bodies it is our view that option 4 is the most appropriate way forward. Our principal objective requires that we have to protect the interests of customers, wherever appropriate by promoting effective competition. Ofgem also has to have regard to the interests of pensioners, disabled, chronically sick customers and those on low incomes, as well as its statutory duties. It is our view that option 4 focuses eligibility in the most appropriate manner. Those eligible for free gas safety checks are those customers who are likely to have difficulties paying for a gas safety check, because they have a low income and who are:

- Pensioners on benefits - who have the highest risk of having dangerous gas fires and are more likely to be at home for long period
- Customers living with a child of less than 5 years old - who are at increased risk due to their age and are more likely to be at home for long period
- Disabled and chronically sick customers - who are more likely to suffer the consequences of dangerous gas appliances due to the amount of time they are likely to spend at home

5.52. We have had regard best regulatory practice when considering these options, in particular the risks faced by certain customer groups. It is, in our view, necessary to have a requirement in the licence to provide gas safety information and to provide gas safety checks as these may not be delivered by effective competition given the costs involved. Option 4, with its reduced eligibility (compared to the current requirement) for gas safety checks, ensures that the burden on suppliers is proportionate in terms of cost and targeted where there is the highest risk. It also ensures that incentives on suppliers to market gas safety checks in the most effective manner and to provide voluntary assistance to customers who have appliances condemned are not reduced.

5.53. We consider that it is appropriate to align the requirements for the free gas safety checks with that for annual landlord checks under the Gas Safety (Installation and Use) Regulations 1998. We have noted comments from CO interest Groups that the check should include a test for emissions using a flue gas analyser. However, a flue gas analyser may not be necessary or appropriate in all circumstances, and certain appliances do not have a flue. Discussion with HSE, and our own technical advice, has confirmed that the check under the regulations does require a series of examinations which would be likely to identify faults that may result in excess or unsafe levels of carbon monoxide emission. Nevertheless, option 4 does not preclude the use of a flue gas analyser if the supplier considers it appropriate in the circumstances.

5.54. To the extent that HSE and parliament may decide in the future to implement a more stringent carbon monoxide test for landlords then we would look to introduce an equivalent test for free gas safety checks. However, we consider that HSE and parliament should lead the way on these safety issues.

5.55. We have a duty to consult with the HSE and take into account any advice that it gives on gas safety issues. We have had regard to HSE's research and statistics and its response to the consultation, in particular it accepts that checks

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should be targeted and that carbon monoxide awareness is poor. It is our view that the requirement for all customers to be provided with specified gas safety information meets with our principal objective to protect the interests of consumers.

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