

## Direct Debit Arrangements

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**Target audience:** Industry, consumer bodies, consumers, Government, Parliament and any other interested parties.

### Overview:

Following concerns raised at the end of last year, Ofgem has reviewed suppliers' direct debit arrangements. Ofgem has found no evidence of deliberate attempts by suppliers to increase cashflow through unjustified increases in direct debits, nor of systematic errors. However, it is clear that, at a time of volatile prices, supplier processes for setting direct debits can result in large variations in payment levels. A lack of transparency and poor communication by suppliers is at the heart of the problem. Ofgem is proposing action - through licence changes if necessary - to ensure suppliers improve their customer service in this important area.

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## Context

- ➔ Ofgem's principal objective is to protect the interests of existing and future consumers, where appropriate by promoting effective competition. Direct debit arrangements are an important issue for many consumers and often result in the cheapest way of paying for energy.

This report and the action we are proposing is in line with Ofgem's priorities in regulating the energy sector.

We are committed to taking action to protect the interests of energy consumers, including vulnerable consumers, and welcome views on our proposals. The action proposed in this document complements other measures to help consumers engage in the competitive market. These include measures to address the unjustified pricing that emerged from our probe into the energy retail sector, and our wide-ranging package of remedies to improve the transparency of the market.

## Associated Documents

- ➔ Ofgem's Energy Supply Probe – Initial Findings Report, 6 October 2008.  
<http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Energy%20Supply%20Probe%20-%20Initial%20Findings%20Report.pdf>
- ➔ Follow up action announced on 23 March 2009.  
<http://www.ofgem.gov.uk/Media/PressRel/Documents1/Probe%20package%20final.pdf>

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## Summary

Monthly direct debits are an important way of paying for energy. For 14.7 million consumers who use direct debits, they allow the cost of energy to be spread across a year and are often cheaper than payment by other means. For suppliers, compared to quarterly billing in arrears, direct debit payment methods provide greater certainty and immediacy of payment and some associated savings. This is recognised by the widespread offering of discounts for payment by direct debit. There is therefore mutual interest in making direct debit arrangements work effectively.

Towards the end of last year, a number of concerns were being expressed about direct debit payments. We were given some files of complaints and also received some correspondence directly from individual consumers.

We have reviewed the correspondence passed to us. We also questioned the suppliers and had discussions to help us reach a view on the current state of the industry's arrangements and the allegation that suppliers were increasing direct debits by more than was justified by changes in their prices in order to improve cash flow. We conclude that these allegations are unfounded, but the way that direct debits are calculated is opaque and can lead to large swings in payments demanded from customers at a time of volatile prices. Consumers can be reassured that there is no systematic problem, but we are proposing action to ensure suppliers improve the way they explain the changes they make and treat their customers fairly.

### **What we found**

Through our investigation we found no evidence of a deliberate strategy by any supplier to increase cashflow to the detriment of consumers and no evidence of systematic errors in the calculation of direct debit payments. However, suppliers' processes can result in very significant increases in payments and large credit / debit balances. This is a particular problem when retail prices are rising or falling to the extent they have been over the past year. For example, where price increases are not reflected in direct debit payments until some months later at the next reassessment, this can lead to a significant catch-up being required. Where suppliers base their assessment of direct debit payments on estimated meter readings then significant debits / credits can result.

At the heart of the problem is a lack of transparency and poor communication by suppliers. Direct debit arrangements are opaque and the precise way in which they operate is unclear. The explanation given to customers by most suppliers when they are notified of the revised payment is wholly inadequate. Suppliers should be able to explain to consumers on an individual basis how they have arrived at monthly direct debit payments - most cannot. Where customers contact customer service, staff often cannot explain how the payment was calculated and a revised payment level is negotiated on the basis of no understanding from the customer of the implications. There is some evidence of payments being lowered in response to a call from a consumer but then increased significantly a few months later without adequate explanation. There are also significant differences and a lack of clarity in the practices of the suppliers on refunding credits.

In terms of individual suppliers, British Gas accounted for 69% of the complaints that we received. This may in part reflect the fact that it had the highest market share, and the largest number of reassessments, together with media coverage.

Nevertheless, its communications were the poorest, and the inflexibility in its systems resulted in bigger swings in payment methods than for other suppliers which its customer service staff were not equipped to explain to customers. It has plans to address some of these issues but these will take time to deliver. At the other end of the spectrum, SSE is the only supplier to provide a full breakdown of the basis for its reassessment of direct debit payments and, while its direct debit customer numbers are smaller, this probably explains why it accounts for only 2% of the complaints received. However, all suppliers have room significantly to improve the way they deal with direct debits in an era of more volatile prices for customers.

### **What we propose to do**

There are no licence obligations directly relevant to the problems we have identified and hence no scope for enforcement action. Our focus in assessing the way in which monthly direct debits operate has therefore been on action to make them work better and in consumers' best interests. At the heart of this is action to improve transparency and the quality of information to individual customers on calculations.

We set out in this document our views on best practice and are considering further measures in our energy retail probe. In a competitive market we would expect suppliers to seek to improve these important aspects of customer service. Where appropriate, we also need levers to ensure that suppliers put things right quickly.

We have had a number of exchanges with the industry representative body the Energy Retail Association (the ERA) about collective action by suppliers to address the problem areas we have identified. The ERA has been receptive to making some changes and sent us some commitments agreed by all suppliers. These would improve on the current position and reflect a number of elements of what we see as best practice. However, in our view, they do not go far enough, in particular in ensuring that customers receive improved individual information. We also need to be confident that self-regulatory arrangements will be effective in delivering the changes needed.

Given the importance of making direct debit arrangements work and the extent of changes required, including modifications to suppliers' systems, **a licence condition may be required**. This would reinforce the need for change and enable enforcement action in the event of systemic problems in a supplier's operation of direct debit arrangements in future, or excessive delays in implementing the changes we believe are needed. The focus of a licence condition would be to require suppliers to communicate clearly the basis of payments to consumers on an individual basis, but we are seeking views both on the need for regulatory action and, if required, the scope and form of such an obligation. Subject to responses to this consultation, if we were to pursue a licence route, we would consider making the changes as part of the probe package of remedies.

We are also publishing advice to consumers on questions they should be asking suppliers and will follow up with individual suppliers to ensure their contracts and

marketing materials dealing with direct debit arrangements are compliant with consumer protection legislation.

We hope our measures will improve the customer service provided by suppliers in this area and hence encourage full confidence in this important payment method.

## 1. Introduction

Direct Debits are an important payment method in the energy sector with benefits for both consumers and suppliers. However, at the end of last year concerns were voiced that suppliers appeared to be increasing direct debit payments by more than was justified by price or tariff changes. We have analysed over 1,000 complaints and sought further information from suppliers on how they set direct debits. Our review has focussed on the domestic energy sector.

### Direct debit payment method in the energy sector

1.1. Direct debits are a useful payment method for consumers to pay their energy bills, and appear to benefit all parties. There is a mutual interest, for consumers and suppliers, in making direct debits work effectively, and in encouraging more consumers to use direct debit as a method of payment.<sup>1</sup> Just under 14.7 million accounts<sup>2</sup> (Gas, electricity and dual fuel) are paid by direct debit, compared to 13.8 million paid by standard credit (quarterly billing).<sup>3</sup>

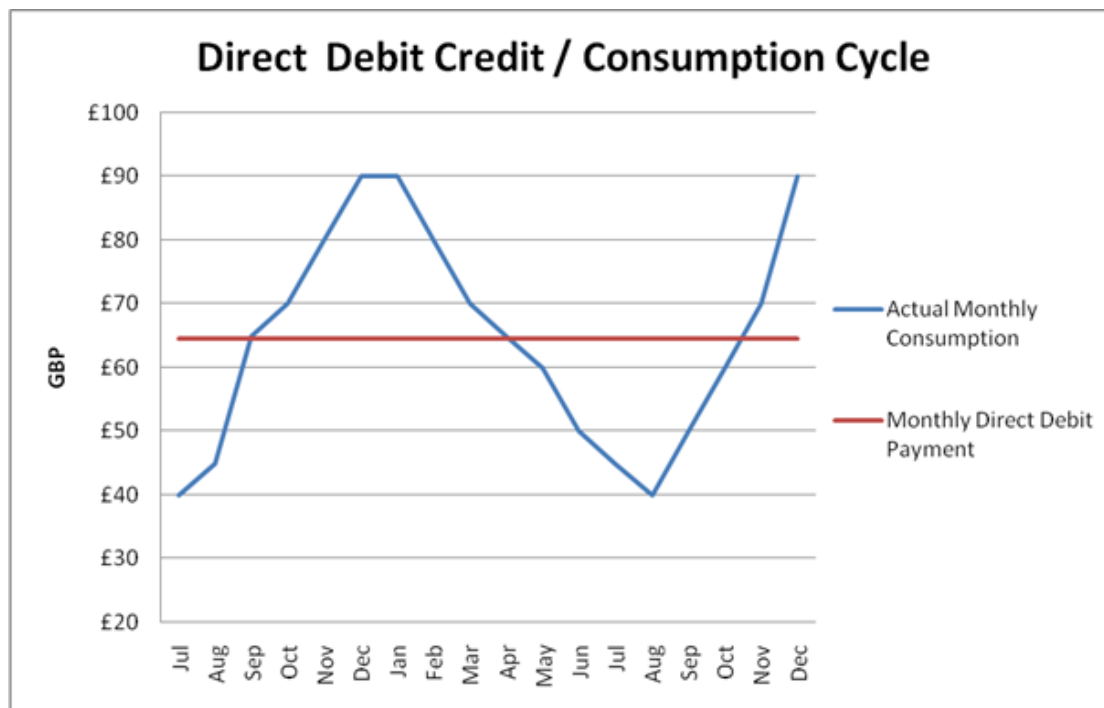
1.2. Direct debits in the energy sector have an advantage over other payment terms – they assist customers in smoothing out bills where a customer would otherwise have a high bill over the winter period. A customer on direct debit normally pays the same amount over a 12 month period, despite their energy usage varying considerably between winter and summer. This means that, over summer, a customer will pay for more than the energy they are using and, over winter, will pay for less. Therefore, for all suppliers, customers would typically have a build up of 'credit' on their payment account over the summer months where consumption of energy is naturally lower. This 'credit' balance would then be used up gradually over the winter months when consumption naturally rose in line with increased demand. Payments should therefore be smoothed throughout the year. Suppliers set direct debit payments with the aim of reaching a zero balance at the anniversary date, or end of the payment year. This is illustrated in the graph below.

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1 See the report of the Financial Inclusion Taskforce, Report on direct debit energy payments, published in December 2008 - [http://www.financialinclusion-taskforce.org.uk/PDFs/report\\_directdebit\\_energy.pdf](http://www.financialinclusion-taskforce.org.uk/PDFs/report_directdebit_energy.pdf)

2 Just under 14.7 million accounts (Gas, electricity and dual fuel) are paid by direct debit, compared to 13.8 million paid by standard credit (quarterly billing): Ofgem, Energy Supply Probe – Initial Findings Report, 6 October 2008, p.40.  
<http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Energy%20Supply%20Probe%20-%20Initial%20Findings%20Report.pdf>

3 Ofgem, Energy Supply Probe – Initial Findings Report, 6 October 2008, p. 40.  
<http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Energy%20Supply%20Probe%20-%20Initial%20Findings%20Report.pdf>

**Chart 1 - Direct debit credit/consumption cycle**

1.3. Direct debits also benefit suppliers. Suppliers clearly prefer customers to pay by direct debit as it is a more regular, reliable form of income and because they consider they can control the payment amounts, with related lower administration costs (such as fewer contacts with customers and lower costs in processing payments) and much lower bad debt costs. They have all expressed their support for the direct debit scheme and concern that these issues may cause customers to move away from direct debits. If a customer pays by quarterly billing (standard credit), they are paying in arrears for the energy they use. With monthly direct debit, a company has an assured monthly amount which they are paid, and for some of the year, this will be paid before the energy is actually used. For these reasons, companies offer a direct debit discount off their tariffs for those choosing this payment method.

1.4. There is therefore a common interest between suppliers and consumers in making direct debit arrangements work effectively. The incentives ought to be there for any problems to be addressed quickly and proactively by suppliers.

1.5. In addition, the direct debit scheme carries with it the direct debit guarantee. The direct debit guarantee is operated by all banks and building societies that take part in the direct debit scheme. The guarantee provides the following main protections:

- if the amount or payment date changes the organisation will notify the customer normally 10 working days in advance of the account being debited (or as



otherwise agreed). In practice, a longer notice period is often given by companies to customers;

- if an error is made by the organisation or the customer's bank or building society the customer is guaranteed a full and immediate refund of the amount paid; and
- the customer can cancel the direct debit at any time by contacting their bank. It is recommended that the customer also notify the organisation concerned with which the payment arrangement was made.

1.6. The methodology applied by all suppliers for the calculation of direct debits is effectively the same for both fuels. All suppliers undertake, at a minimum, an annual review of the customer payment plan, with the majority of suppliers describing additional interim reviews on either a quarterly or six monthly basis to assess the adequacy of payments received from the customer.

1.7. The intention, according to all suppliers, is to have customers at a zero balance at the end of the relevant year. The majority of suppliers use a 12 month period ending with the actual account anniversary, although E.ON operates a fixed year end point described as 'the Spring' (April to June quarter).

1.8. Direct debit payment amounts are based on estimated usage and are an apportionment of the yearly consumption. Companies forecast future usage using algorithms which take into account past usage and, in some cases, seasonal profiles based on weather predictions and wider energy consumption trends. For new customers where suppliers do not have past usage information, they may base their estimates on information about the personal circumstances of a customer (such as size of home and number of radiators).

1.9. However, where companies do not have actual meter readings and are reliant on estimated readings, the forecasts will inevitably be less accurate.

1.10. Direct debit is the cheapest payment method<sup>4</sup> and assists in smoothing payments over the year, allowing consumers to avoid debt build up. This has been recognised by the Financial Inclusion Taskforce<sup>5</sup> in its December 2008 report on direct debits, which encouraged suppliers to remove barriers for consumers wishing to pay by direct debit, including those on low incomes, where direct debit payments could assist in alleviating fuel poverty.

1.11. A wide range of consumers, including some on relatively low incomes, pay by monthly direct debit. When there is a significant variation in payment levels, this can cause difficulties for consumers who are managing on a limited budget. The

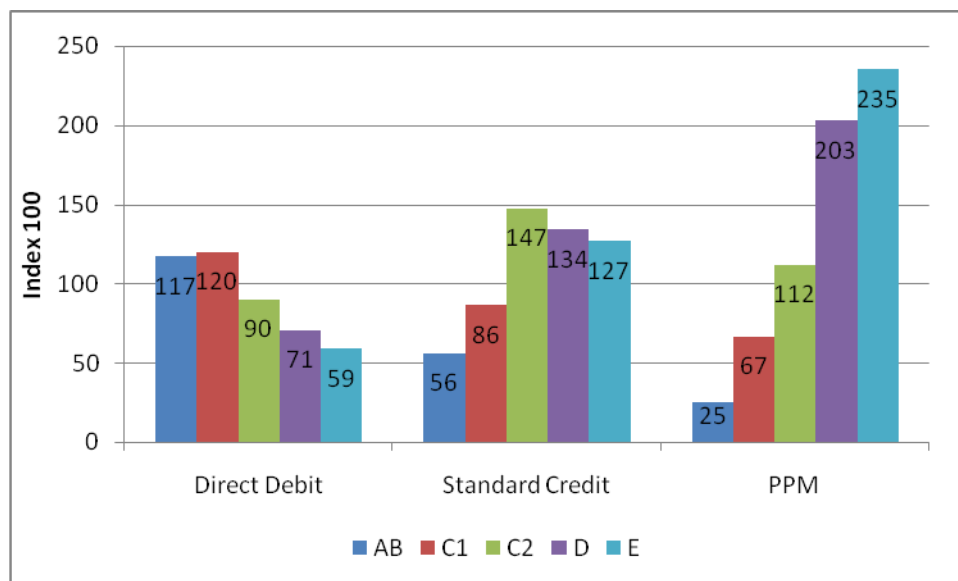
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<sup>4</sup> Particularly online direct debit tariffs.

<sup>5</sup> See the report of the Financial Inclusion Taskforce, Report on direct debit energy payments, published in December 2008 - [http://www.financialinclusion-taskforce.org.uk/PDFs/report\\_directdebit\\_energy.pdf](http://www.financialinclusion-taskforce.org.uk/PDFs/report_directdebit_energy.pdf)

figure below shows that direct debit payment is skewed only slightly towards AB socio-economic groups.

**Chart 2 - Payment type by socio-economic group (indexed)**



Source: Ipsos-MORI Ofgem customer engagement survey July 2008

## Concerns raised

1.12. Prior to late 2008, there had been no history of major problems or complaints relating to direct debits. We did not receive any direct complaints or formal referrals from Energywatch (as it then was) on this issue.

1.13. The position started to change late last year. Ofgem received over 1,000 complaints from three sources. Peter Luff MP, the Chairman of the Business, Enterprise and Regulatory Reform Select Committee passed us a dossier of complaints from constituents; a national newspaper sent us copies of letters they had received from readers, and our own Consumer Affairs team received some correspondence. No complaints were passed to us by Consumer Direct or Consumer Focus.

1.14. The complaints followed concerns being raised in the media about significant increases consumers were being asked to pay. Examples were cited in which consumers' direct debits had increased by large percentages out of proportion to the increased energy prices announced in the second half of last year, including cases where the consumer had a healthy credit balance on their account.

## Links with Ofgem's retail markets probe

1.15. We considered the relative costs of payment methods to consumers, including direct debit, in our energy retail probe. Direct debit is generally the cheapest way of paying for energy usage, and the probe concluded that the differential between direct debit and standard credit could not be justified by the higher costs.<sup>6</sup> We have since published documents on potential licence conditions to address unfair price differentials and a broader package of remedies to enable consumers to engage more effectively in the market.

1.16. Building on the probe, our recent quarterly wholesale/retail price report,<sup>7</sup> published in February 2009, shows that, across the industry, retail prices have moved in line with rising wholesale energy costs, and that margins have been relatively consistent. It also notes the recent upward pressure on costs, and volatility in wholesale prices (which suppliers attempt to offset with some degree of hedging) and margins. At an industry wide level, this report concludes that there is no direct evidence that prices were increased systematically in the second half of last year to boost margins, but that rises appear to be in line with associated wholesale energy costs to the industry.

1.17. We announced on 23 March 2009<sup>8</sup> that we would be consulting shortly on new standards that suppliers must keep to in all of their dealings with customers. Our initial ideas on these are that suppliers must:

- not sell a customer a product or service that they do not fully understand or that is inappropriate for their needs and circumstances;
- not change anything about a customer's product or service without clearly explaining why;
- not prevent a customer from switching product or supplier without good reason;
- not offer products that are unnecessarily complex or confusing; and
- make it easy for customers to contact their supplier and act promptly and courteously to put things right when the supplier makes a mistake.

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6 Ofgem, Energy Supply Probe – Initial Findings Report, 6 October 2008, p. 90.  
<http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Energy%20Supply%20Probe%20-%20Initial%20Findings%20Report.pdf>

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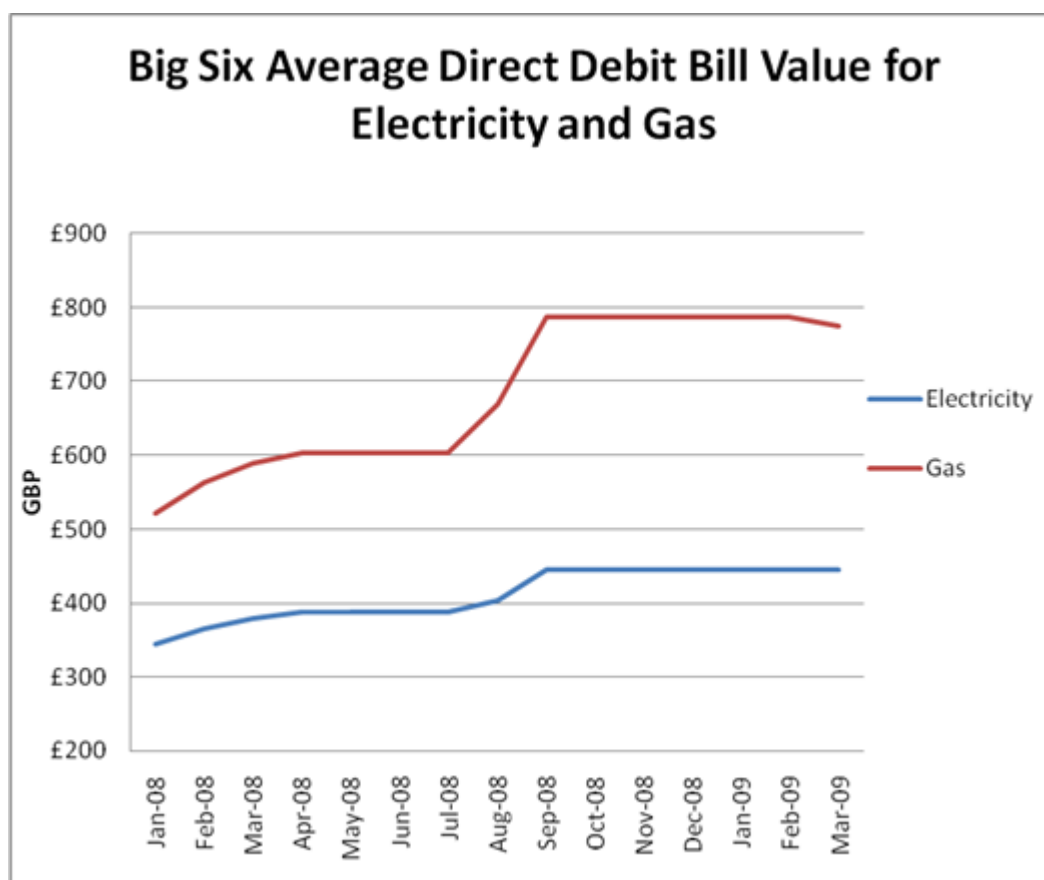
<http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Wholesale%20retail%20price%20link%20report%20-%20February09.pdf>

8 <http://www.ofgem.gov.uk/Media/PressRel/Documents1/Probe%20package%20final.pdf>

## Drivers exacerbating the situation

1.18. As noted above, recently the energy sector has been marked by volatility in prices – wholesale price increases or decreases have been passed on to varying degrees by suppliers to their customers. 2008 saw two rounds of price rises, one in the first half of the year and another towards the end of the year. This is indicated in the graph below which shows average bill values per month for the big six suppliers over the course of 2008-09 up to 1 March 2009.

**Chart 3 - Average direct debit bill value over year**



*Graph correct as at 1 March 2009. Please note that the graph includes the price reduction announced by British Gas which came into effect on 19 February 2009, but none of the other price reductions announced by suppliers after this date.*

1.19. This last price rise was reflected in direct debit rates ahead of the winter period when, typically, energy consumption is higher and hence most consumers will have a credit balance on their accounts. Compounding this, some suppliers' fixed tariff products finished at this time – a consumer coming off a fixed tariff at this time

experienced compounded price rises on going back to the variable tariff as they had previously been 'insulated' from increases.

1.20. These factors would have contributed to the very high increases that some consumers experienced – much greater than the headline price increase. Our concern was to understand whether suppliers' practices in relation to direct debits were further exacerbating the situation.

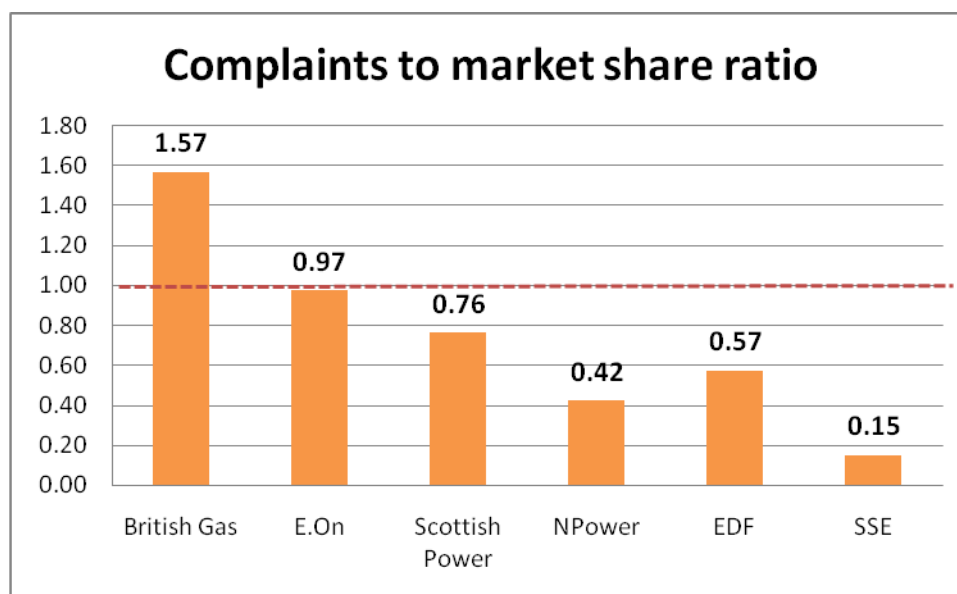
## Our investigation

1.21. Our starting point was to look at the 1,000 complaints we had received. We received complaints about all of the 'big six' suppliers. Of the 845 consumer complaints in which they identified their supplier, the majority (69%), were complaints in relation to British Gas, the second highest were in relation to E.ON, and the lowest number of complaints were received in relation to SSE (2%).

1.22. The chart below shows the number of complaints by supplier in relation to market share. It should be noted that the relatively high level of complaints against British Gas may be explained in part by the fact that many of the media articles last year focused on British Gas, the high level of reassessments they carried out in the period, and relative market share. However, from our assessment of supplier practices, British Gas' communications were the poorest across suppliers and their processes the least flexible leading to some extent to larger swings in payment levels.

1.23. Our investigation focused on the big six suppliers because they constituted virtually all of the complaints, and represent the majority of domestic supply.

**Chart 4 - complaints to market share ratio**



1.24. On average, across the complaints we received, consumers were £124.90 in credit when their direct debit was increased. The average increase in monthly payment amount was 71% before the consumer contacted their supplier - with a proportion then securing a reduction of on average 21%. However, it must be noted that most complaints passed to us did not include historic consumption details. Increased consumption or previous under-billing may account for many of these large increases. It would also be expected that consumers would have a credit on their accounts at the time when the complaint arose, going into winter.

1.25. Our investigation covered the 2008-09 year, taking in the complaints received in quarter 3, and financial and policy data from suppliers up to March 2009.

1.26. In addition to reviewing these individual complaints, we also sought a representative sample from each supplier of 100 recent reassessments. As can be seen from the charts in Chapter 2, the average increases and levels of credit were lower than for the complaints we received. However, the variation was very wide, confirming that the complaints were not isolated instances.

1.27. We asked each supplier a number of questions about their current methodology, practices and policies. We had discussions with all the suppliers individually to clarify their responses and ask follow up questions. We have had a number of exchanges with the ERA (the industry representative body and steward of the industry's Billing Code<sup>9</sup>) and finally, we have held a workshop with the industry and Consumer Focus.

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<sup>9</sup> Note that SSE are not part of the ERA Billing Code - they have their own Customer Charter.

## 2. Our Findings

Our conclusions from our investigation are that there is no evidence of a deliberate strategy on the part of suppliers to boost cashflow and no systematic errors in their calculations. However, where suppliers delay applying price changes until the next reassessment of a customer's account then significant adjustments can be needed to a customer's payments. This can be exacerbated where suppliers rely on estimated readings or agree to reductions in payments without properly explaining the consequences. At the root of all these problems lie a lack of transparency and poor communications with few suppliers providing customers with a full individual explanation of how their payment level has been calculated. There are also big variations in the way suppliers will refund credit balances - a lack of clarity for customers in the timing and amount for refunds make this a concern. Across all these areas we have set out what we consider to be best practice, which suppliers should be looking to adopt as soon as possible.

### Question box

1. Do you agree with our analysis of the issues?
2. Do you agree with the elements of best practice we have identified (described here and summarised in chapter 3)?
3. Are there any other elements of best practice you think we should consider?

## Common themes

2.1. In looking to assess whether suppliers were mis-using direct debits or applying them incorrectly we encountered some difficulty. The basis of direct debit calculations is opaque and, while suppliers sought to be helpful, in many cases they did not appear to record or monitor information in ways that enabled us readily to assess how direct debits were being applied. That said, by looking at different sources of information we have been able to draw a set of conclusions which are that:

- we found no evidence of deliberate attempts by suppliers to improve cashflow;
- there was no evidence of systematic errors but weaknesses in suppliers' processes tend to have a greater effect when overall retail prices are rising or falling significantly;
- the explanations given to customers are wholly inadequate; and
- the basis on which credit is refunded varies significantly between suppliers.

2.2. The following paragraphs examine each of these in more detail.

## **No evidence of deliberate attempts to increase cash flow**

2.3. As noted in Chapter 1, allegations were made in the media at the end of last year that companies were 'profiteering' by setting direct debit payments at unjustifiably high levels to improve their short term cash position. Using the justification of price increases late last year, it was argued, these companies had taken the opportunity to increase direct debit levels much beyond the price rise increases.

2.4. Suppliers rejected the claims that they were profiting from the credit accumulation, arguing that customers were on average in debt to them over winter, and then in credit over summer, leading to a net overall zero position. They restated that they saw direct debit as beneficial for both customers and themselves in smoothing payments throughout a year, and pointed out that direct debit payments were not payments for a particular period, but were instalments for the projected yearly usage of gas and/or electricity by the customer.

2.5. Understanding what is happening with direct debit levels has proved difficult given the seasonal profiles of usage and the opacity of suppliers' arrangements. Suppliers themselves have also struggled at times to provide us with clear information rebutting these allegations. To reach our conclusions, we have therefore looked at a number of different indicators which we are satisfied are sufficiently robust to address the questions arising in this report.

## **Detailed review of a sample of the complaints**

2.6. We looked in detail at a sample of the individual complaints relating to each supplier, and sought consumption, tariff, and reassessment data from the supplier for each of the cases to see how the payments were calculated. It appears to us from this that the basic principle which is followed is sound, in that the increases represent forecast usage multiplied by the tariff, with an adjustment for the debit or credit at the start of the period. However, the basis for the forecast usage was generally unclear and dependent on complex algorithms in suppliers' systems. Nevertheless, we found no evidence overall of these forecasts systematically over estimating usage. It was also clear that many of the complaints arose primarily because the supplier had not adequately explained the increase. This issue is discussed further below.

## **Average payment increases**

2.7. To corroborate the issues raised in the complaints, we sought a random sample of customer records from each supplier, drawn from the same date in Quarter 3, 2008-09, which showed the increases in their direct debit payments, their credit level, and other relevant factors (see charts 5, 6 and 7 below).



2.8. Within this sample, for British Gas and EDF Energy the average increases in payments appeared higher than their price increases notified in February and August 2008.

2.9. British Gas informed us that they had undertaken a 'rapid reassessment' of all their direct debit customers immediately following their price increase, compressing the reassessments into a short period. Thus, for example, if prices changed in July and the reassessment was done in October for a customer with a payment year with an end date of March then eight months of price increases would be compressed into five. British Gas said the aim of this was to reduce debt build up for their customers but it would clearly result in much higher payment levels over that shorter period. British Gas appears to be alone in this practice and has told us that it plans to include in the rapid reassessment process a rolling recovery which will allow the spreading of debit on an account over 18 months, and is planning to implement this change before the end of May 2009.

2.10. In EDF Energy's case, part of the explanation may be that, as Chart 6 shows, they had allowed their customers on average to build up debit balances (in contrast to the rest of industry where on average customers were in credit at this time of the year) and in resetting payment levels would have looked to recoup outstanding debt as well as the price increase.

2.11. We are satisfied that in both these cases there are plausible explanations for why the average increases are superficially higher than might be expected on the basis of the price increases.

### **2008 aggregate revenue position**

2.12. To further test suppliers' practices, we looked at financial data from each supplier on their cash flows for direct debit customers. We sought information from each supplier on the overall level of monies collected through direct debit payments in 2008 against the revenues due (i.e. usage x price). We followed up specific questions we had with each supplier, and obtained further information from them where necessary. In aggregate, across all suppliers, the total monies collected were 100.09% of the revenue due. This figure is derived from taking the revenue collected from direct debit customers across the big six suppliers and dividing it by the revenue due for direct debit customers across the big six suppliers. It demonstrates that across the industry there is no systematic over recovery. We found a range from 96.4% to 103.4% across the big six suppliers. The individual figures are not directly comparable as there are different factors which apply. These include:

- customers moving to direct debit from standard credit during the year - where a customer changes from paying in arrears to paying in credit this brings cash forward;
- demand falling across the latter part of 2008, as people used less energy than predicted earlier. This meant estimates of consumption, and therefore expenditure, were slightly over estimated; and

- companies gaining new customers over the latter part of 2008 where they would normally be expected to be in credit going into winter, but have not been with the supplier long enough to build up credit.

2.13. After probing these explanations with individual suppliers, we are satisfied that there is no evidence of suppliers over-recovering in 2008.

## **Conclusion**

**2.14. Our conclusion from these three strands of analysis is that there is no evidence of a deliberate strategy by suppliers to bolster cash flows by increasing direct debit payments beyond what is justified.**

## **No evidence of systematic errors...but weaknesses in suppliers' processes exacerbate price volatility**

2.15. One element of the allegations made at the end of last year was that there were systematic errors in suppliers' calculations. Having been through a sample of the complaints in detail and having sought further information from the suppliers, we have found no evidence of systematic errors in the calculations. There were however a small number of cases where the supplier concerned confirmed that it had made an error.

2.16. The process of projecting a customer's future usage is inevitably not a precise science. In particular, where the supplier has only estimated meter readings or the customer has recently switched to them without any billing history then there is scope for the forecast usage to be inaccurate. Changes in the individual customer's circumstances (such as installation of a new boiler) can also have an impact on usage levels. In these cases, customers can build up quite high levels of debit or credit and at the next reassessment will see a large adjustment to their payment level.

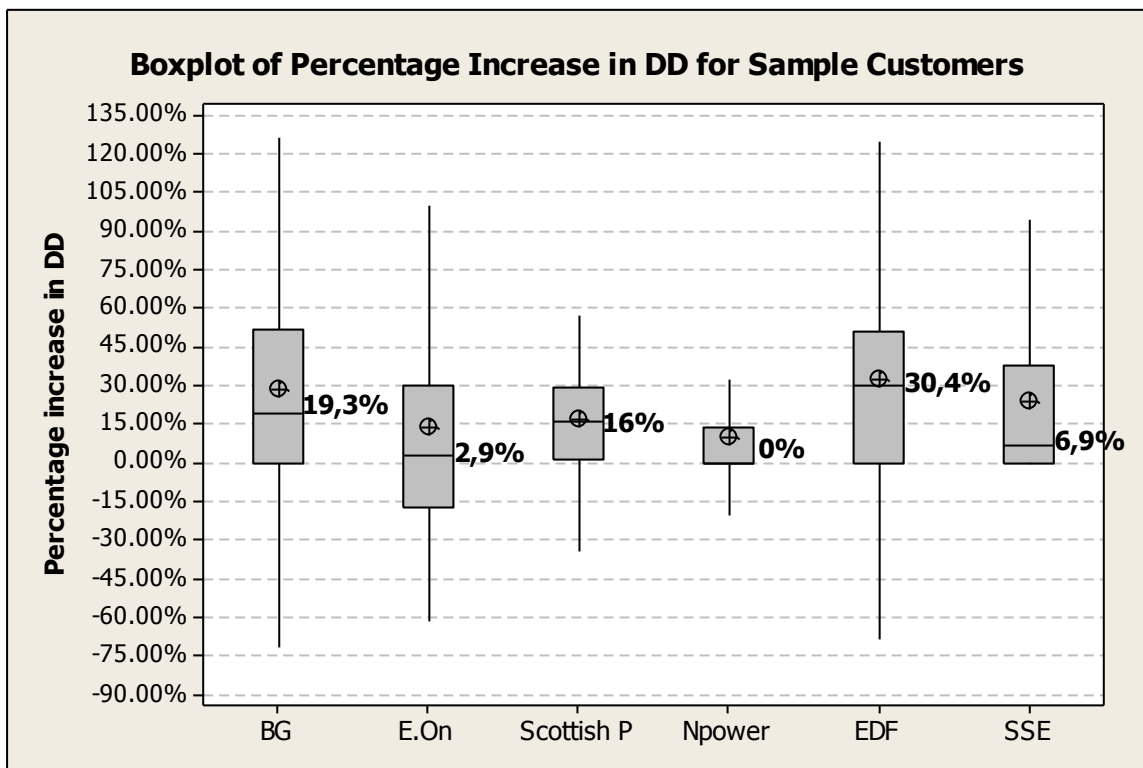
2.17. In addition, suppliers typically only apply the price increase when they carry out a full reassessment (typically on a six monthly or annual basis) which can again result in a build-up of substantial debits when prices are rising, particularly when they are rising to the extent seen in 2008 - and the need for a much more significant increase in the payment rate subsequently to catch up.

2.18. These issues can be further exacerbated where the customer presses for, and is given, a reduction in their direct debit payment below a realistic level, and in the absence of proper information, with the need subsequently for even larger increases to recoup the subsequent debit balance on the account.

2.19. The chart below shows the combined impact of these factors and potentially others, in terms of the huge variations in the increases / decreases in payment levels in the sample of reassessments provided by each supplier.

2.20. The information on the percentage increase in payment levels for the sample customers is presented in the form of a box plot which shows the minimum value, the lower quartile, the median, the upper quartile, and the maximum value. Each quartile contains 25% of the data set. Note that 4% of responses from each supplier were outliers and have been excluded from these tables.

**Chart 5 - Boxplot of increase in Direct Debit for Sample customers**



2.21. This box plot compares the distribution of the increase in direct debit payments for a sample of customers from each of the big six. We can see that BG and EDF Energy have the highest median increase in direct debit (19.3% and 30.4% respectively) as well as the widest spread (from around -75% to 120% in each case).

2.22. While all suppliers follow a broadly similar approach in calculating repayment levels, there are differences in, for example, the frequency of reassessments and the approach to collecting meter readings. These factors can affect the risk of significant build-ups of credit / debit. We set out below examples of best practice in each of these areas.

### Frequency of reassessments

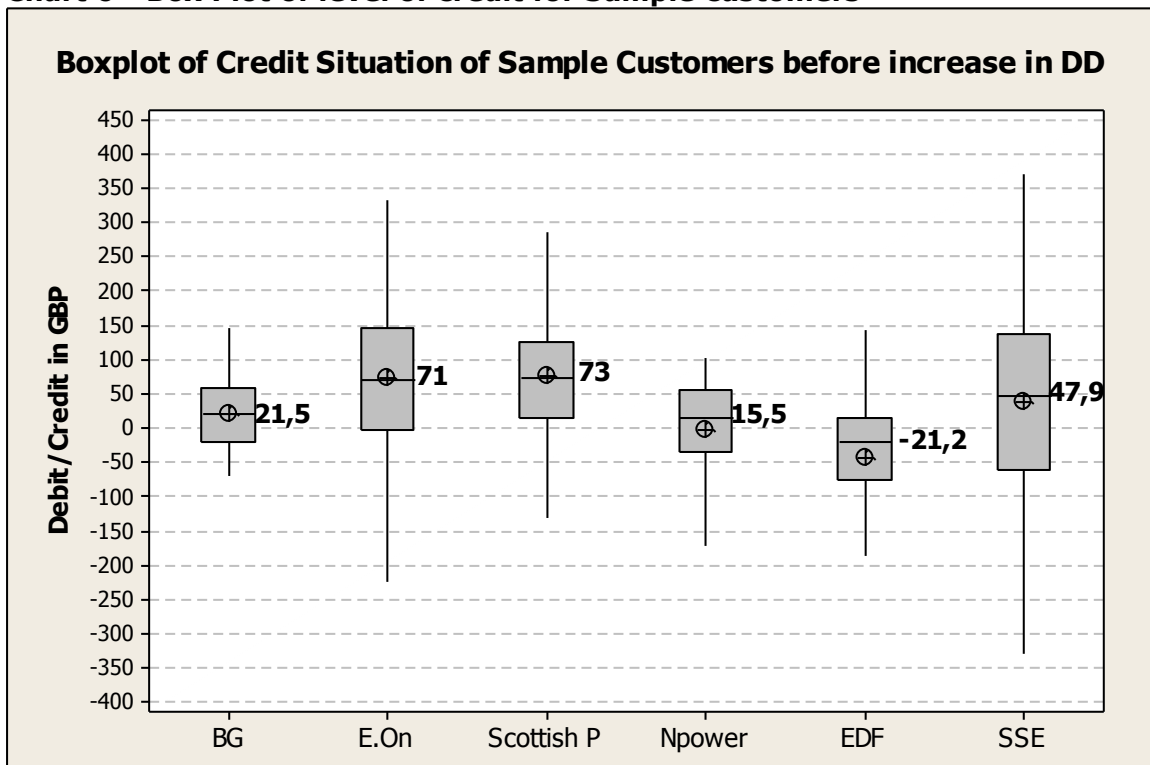
2.23. All six suppliers undertook reassessments, to some extent, during the period August to November 2008. British Gas, which had the highest market share,

completed a review of their entire customer base within this time period (the 'rapid reassessment process'), while the remaining suppliers reviewed those accounts which were due for review either annually or as part of an interim review.

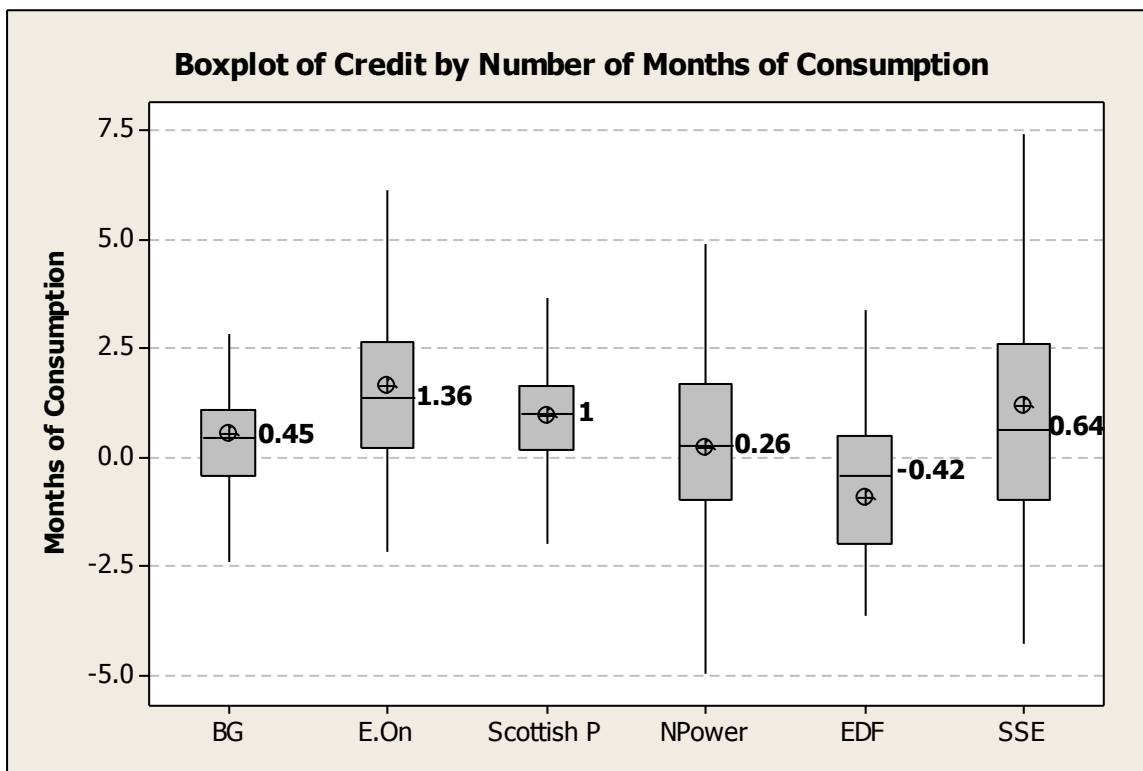
2.24. The more frequently suppliers carry out reassessments, the less likely customers are to build up large credit / debit balances. Suppliers' practices in this area vary. ScottishPower carry out the most frequent reassessment, working on the basis of quarterly reassessment. By contrast, SSE only normally reassess once a year, and, perhaps as a result, has the widest spread of credit/debit balances as shown below. SSE state that a customer's account can be reviewed at any time and that they monitor customer accounts 'behind the scenes' more frequently, and couple this with pro-actively seeking customer engagement in choosing a level of debit or credit that the customer is comfortable with. They do this through prompts on bills and letters to provide information to them.

2.25. The charts show the average level of credit for each supplier, and credit by months of consumption for that customer. This latter measure is helpful as it gives a clearer picture of how far 'ahead' the customer is in terms of their individual consumption.

**Chart 6 - Box Plot of level of credit for Sample customers**



**Chart 7 - Box Plot of credit by number of months consumption for Sample consumers**



2.26. An alternative approach to regular reassessments is to link the reassessment to particular triggers. In some cases, suppliers will link the reassessment to when they get actual meter readings. British Gas' approach of rapid reassessment was aimed at ensuring the effects of recent price increases were fed through more quickly into payment levels. In a welcome move, British Gas have confirmed that the latest price reductions will be reflected straight away in an adjustment to direct debit payments (i.e. without a full reassessment). Timely reassessment avoids the risk of balances increasing and the need for more significant adjustments at a later stage, creating difficulties with budgeting.

2.27. We urge all suppliers to look at how they can ensure that direct debit payments are based on the most up to date information, are flexible, and are reviewed frequently, and that significant price changes are reflected in payment levels as quickly as possible to avoid significant build ups of credit / debit and consequent large swings in repayment rates.

### **Flexibility on debt rollover**

2.28. Another factor that can affect the volatility in payment rates is the way in which suppliers look to recover any debt that they calculate as part of a reassessment part way through the payment year.

2.29. As noted above, British Gas sought to recoup any money that is owed by the end of the payment year (unless the reassessment is carried out in the final quarter). While this was designed to reduce build-up of debt, it also led to British Gas recouping underpayments in much less than a twelve month period, meaning large direct debit payment increases for some customers.

2.30. Other suppliers' systems are more flexible and can allow debt to be rolled over into the next payment year, enabling it to be recovered over a longer period and hence payments to be smoothed.

2.31. Npower was explicit in stating that where a customer had a debit balance of £25 or more at the time of reassessment, the customer was given the option either to clear the balance as a one off payment or to spread the amount going forwards. Providing the customer with a choice in this way would appear to us to be best practice.

2.32. EDF Energy's policy is to recover any debit balance of over £150 at the end of the year from customers' bank accounts. This appears inflexible and could cause real difficulties for customers on low incomes, who may have been paying regularly the amount that EDF Energy had determined.

2.33. Two suppliers described their thresholds for varying a payment plan as being set to around 8% (E.ON) or 12% (ScottishPower); that is to say if the varied amount would result in less than an 8% or 12% change respectively, the payment plan would be left unaltered. EDF Energy subsequently told us that they also have a threshold, and if an increase would result in less than a 10% change the payment plan would be left unaltered.

2.34. In terms of best practice, suppliers should aim to have systems that are flexible and can accommodate different periods over which debts are recovered. We urge suppliers to develop their systems to deal flexibly with debt on customers' accounts.

### **Meter readings**

2.35. Where the supplier does not have a history of actual meter readings for the customer there is a greater risk of significant credit /debit balances building up with subsequent substantial swings in payment rates.

2.36. We acknowledge that it is sometimes difficult for suppliers to obtain actual meter readings, but again suppliers' practices vary considerably both in terms of the frequency with which they obtain actual meter readings and the extent to which they encourage customers to read the meter themselves. In terms of actual meter

readings, for example, E.ON and British Gas aim to read all meters quarterly, whereas other suppliers typically only aim to read meters every six months. Where reassessed accounts are based on estimated readings, most suppliers prompt the customer to provide a reading themselves to provide a more accurate reassessment picture.<sup>10</sup> Some suppliers, including E.ON, explained that the messages encouraging customer contact would change depending on the number of estimated readings which had occurred on the account - the greater the number of estimated readings, the more encouragement / urgency was attached to the associated customer message contained in the statement.

2.37. Most suppliers allow customers to provide their own readings over the phone. However, some suppliers do not clearly prompt this on bills and other communications with customers, and there are some indications that others may 'quarantine' these readings where they do not appear to tally with meter readings by the supplier.

2.38. In terms of best practice, we note that SSE, npower and EDF Energy<sup>11</sup> provide clear prompts to provide a customer reading on communications, and SSE operates a phone service and 24hr automated input service for inputting these readings.

2.39. Clearly, smart metering has the potential to remove this as an issue as this will give suppliers ready access to frequent meter readings. However, smart metering will take some time to roll out. Given this, we expect suppliers to develop ways in which they can gain up to date and accurate meter readings.

2.40. Given the potential effect of estimates on the credit/debit position of customers, we urge all suppliers to look at what more they can do to encourage meter readings by customers to ensure that direct debits are based on the best available information. We also encourage customers to make sure their supplier has an up to date meter reading.

### **New customers**

2.41. Payment by monthly direct debit can be one of the best deals for consumers. We have noted that the problem of obtaining robust forecasts of usage is made more complicated in the case of new customers who have no billing history. One of the

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10 Some suppliers actively encourage this - SSE through clear billing messages, EDF through offering 'Nectar' reward points through their 'Read Reward' Scheme.

11 Suppliers differ in how they encourage customers' own meter readings. SSE have a prominent prompt to supply a meter reading on the front of their bills. Where a bill is based on an estimated reading, npower include a prompt to customers to supply a meter reading. EDF encourage regular customer readings through their 'Read Reward' scheme. It should also be noted that British Gas has recently made improvements in this area.

reasons given by suppliers for some customers building up large debits was that the direct debit payment was set at too low a level when the customer joined them.

2.42. This highlights the importance of ensuring that consumers are fully informed before signing up to monthly direct debit packages. This means having more information on both their level of consumption and accurate information about different tariffs to ensure they choose the best deal for them. We are addressing these issues as part of our energy retail probe, where we are planning new requirements on annual usage statements for domestic customer billing and on marketing by suppliers.

**2.43. In the meantime, we urge suppliers to ensure that they are using the best information available to set direct debits at an appropriate level for new customers. Examples of good practice in this area are where suppliers look to use information on the size of property, number of radiators, etc to help estimate future usage in the absence of reliable information on past usage. Some suppliers, such as ScottishPower, already do this. We also urge new customers to provide accurate meter readings and information on past usage and suppliers to make it easy for customers to provide this information to them.**

## Transparency

2.44. It was very clear to us that, almost invariably, those complaining had not had the basis for the increase adequately explained to them.

2.45. In general, reassessments were the trigger for the complaints we received. A customer would receive a communication from their supplier notifying them that there had been a reassessment of their direct debit payment and that a higher amount was now required. This appeared in many cases to be all that the customer was told at this stage, but differed by supplier - with, generally speaking, those suppliers who had more complaints appearing to have communicated less to their customers, and vice versa. In this context, it is worth noting SSE's generally clear and detailed explanations and focus on customer service and their low level of complaints from those we received (see chart 4).

2.46. For the customers we received complaints from, where the customer then contacted their supplier, customer service was often inadequate. In many cases, agents did not explain the basis of the increase appropriately, and in a significant number of cases they appear to have agreed to a reduction in the amount without raising with the customer the implications of so doing in terms of the risk of building up debt.

2.47. As noted above, one of the suppliers also attributed part of the recent steep rises in payment plan levels to the expiry of a number of fixed price tariff products, which may have protected customers from price rises over recent months. This emphasises the need to ensure that communication is clear so that the customer understands the implications of particular deals.



**2.48. All suppliers have acknowledged that communications (both oral and written) with their customers can be improved.**

2.49. In reviewing the 1,000 complaints, there often appears from the customer perspective to be no rational basis for a supplier increasing the direct debit by what they see as a disproportionate amount. This applies in particular to customers in credit, given the lack of information about the basis for calculations. Many customers expressed shock that the increase was higher (often much higher) than the price increases announced by their supply company in the second half of the year. And where suppliers then agreed to significant reductions in the direct debit rate (without any explanation) this only served to confirm customers' perceptions that the original increase was unjustified.

2.50. To inform our investigation we obtained examples from each of the suppliers of the information they sent to customers when advising them of changes to their direct debit and of the information available to customer service staff to aid them in discussing payment levels with customers.

2.51. In many cases, the information provided by suppliers was woefully inadequate given the level of the increased payments that were being demanded of customers. However, some suppliers are better than others, and we set out below what we see as examples of best practice in this area.

2.52. From our analysis, a lack of transparency and poor communication lies at the root of most of the complaints, and suppliers need to address this quickly.

**Individual explanations of the basis of reassessments**

2.53. As indicated above, some suppliers, such as British Gas, provided no individual explanation of the basis for any reassessment and simply had a line on the bill noting that the customer's direct debit payments had been increased to cover future energy use - accompanied by a generic explanation or leaflet which did not address the reason for an individual customer's change. In our view, this is wholly inadequate. Customers have no way of assessing whether the revised payment level is appropriate or of negotiating a reduction on an informed basis. British Gas has discussed making improvements, but we understand these are unlikely to be able to be implemented until 2010.

2.54. By contrast, SSE and npower provide a full breakdown showing the assumed annual usage, the tariff rate, the resulting costs p.a., any debit/credit carried forward and how this converts into a monthly payment. An example is attached at Appendix 3.

2.55. Some other suppliers go some way towards providing individual explanations but do not include all the detail that SSE do (see table at Appendix 2). In our view, this level of individual information is essential to enable customers to understand properly the basis of the calculation and to determine whether the payments being demanded are reasonable.

2.56. Suppliers who do not currently provide this information have highlighted to us that to do so would involve significant IT changes which would take some time to implement. We recognise that such changes will take time but believe it is important that these changes are progressed on as rapid a timeline as practical.

### **Clear explanations of how direct debit works**

2.57. From the cases we have reviewed it is clear that many customers are not clear how suppliers have calculated their direct debits. Suppliers have not given adequate explanations and hence customers often do not understand that their direct debit payments in energy are based on forecast usage (in contrast to standard credit where they are paying for energy already used, in arrears) and that because payments are smoothed over the year, customers will tend to be in credit over the summer and in debit over the winter.

2.58. Many of the complaints received were from people expressing concern that their payments were being increased when they were already in credit. Given that the reassessments were being carried out ahead of the winter this is not necessarily surprising. However, it shows that suppliers had not explained to their customers clearly the way their credit/debit position might be expected to vary over the year.

2.59. Some suppliers provide clearer explanations than others and several have looked to improve this aspect of their communications since the start of our investigation.

2.60. A good example of a clear generic explanation is that provided by E.ON (attached at Appendix 3).

2.61. Suppliers also need to help their customers by ensuring that their direct debit bills are clear. This can help customers judge whether their payments are reasonable, although this is complicated by the seasonal parameters. British Gas have now redesigned their bill to make it much clearer.

**2.62. In our view, this generic explanation of direct debits should be made available to customers when they first sign up to direct debit and whenever their payments are changed. It should also be available on the supplier's website.**

**2.63. We would urge all suppliers to look at how they can provide clearer explanations of the way that direct debit works.**

### **Willingness to enter dialogue**

2.64. While almost all suppliers signalled to us a willingness to discuss customers' payment levels with them, this was not normally clear from the communications sent to customers.

2.65. Where customers' circumstances change (for example, if they have energy saving measures installed or family leave home) this can affect usage and suppliers could do more to encourage customers to feed in this information.

2.66. Whilst the majority of suppliers indicated that individual circumstances could be taken into account in reviewing customer consumption levels, many suppliers appeared to rely on customers making contact following notification of payment plan revisions to update this information.

2.67. While the initiative is with customers, suppliers could and should do more. **We expect suppliers to make clear on their communications that if customers are concerned about the level of their payments or their circumstances have changed then they should contact their supplier.**

### **Informed customer service staff**

2.68. In practice, very high numbers of customers do contact customer service to query their direct debit payments. Between August and November 2008, a quarter of a million (- 4.4% of the total number reassessed) British Gas customers had their payment levels manually reset following a contact to customer service. E.ON similarly reset 260,840 accounts, representing 30% of accounts reassessed in the period. Other suppliers reset between 7 and 16%. However, as discussed below, there seem to be very wide differences in practice. In some cases, very significant reductions in payment levels were made but without adequate explanation of the implications. In other cases, customer service staff apparently refused to discuss changes at all.

### **Informed reassessment**

2.69. There are a number of reasons why an account may be reset. In some cases, a reassessment may be based on an estimated meter reading and a customer subsequently gives their own reading over the phone, and the amount is reset on that basis. However, a reset may also occur where a customer complains and requests a lowering of the direct debit. In this case, we are concerned that customers may not have had the implications of the change clearly explained to them. Indeed, some of the complaints raised concerns for us that some suppliers responded to complaints by lowering direct debit payment amounts, only to increase them due to a debt build up at the next reassessment, lower them when the customer complained again, and so on. Of the accounts which were reset after customer contact, a segment of customers experienced an increase in their payment level but the majority of customers saw a decrease in payment plan amount.

2.70. The problem is that in many cases these adjustments to payment levels were being made in the complete absence of information for the customer as to how the original payment level had been calculated and hence the implications of any readjustment. The guidance given to British Gas customer service staff was that they should not reduce the payment by more than 50% of the increase. British Gas have told us that this was backed up by clear training for staff to make clear to customers

how their direct debit payments would be affected by this. However, in a high proportion of the cases we reviewed, front line staff made bigger adjustments than this "on customer's request", and apparently without explaining the effect. The real concern here is that customers may not have had it explained to them that they are simply storing up problems for the future if the payment levels are set too low.

2.71. These issues may have been further compounded by the fact that any warnings about debt deferral (whereby a payment plan is lowered below a viable level at the express wish of a customer) given at the time of any readjustment by a customer service agent, do not appear to have been followed up in writing.

2.72. In general it would appear that unless individual explanations had been sent to the customer, customer service staff were equally uninformed about the basis of the reassessments.

2.73. In some cases, and in particular with British Gas, suppliers were unable to explain adequately to us the basis of the individual reassessments. This reinforces our concern that customer service staff do not have the necessary information to have an informed discussion with customers.

#### Willingness to negotiate

2.74. Many of the complaints we received focused on negative experiences in interacting with their supplier, generally with the customer service area. This took several forms, with some customers claiming that staff had refused to discuss or negotiate changing direct debit levels and had told the customer that their only alternative to paying the increased direct debit was to abandon the direct debit and move to quarterly billing. Some customers reported that they felt caught between wanting the discount offered on direct debit and feeling powerless to control the amount taken.

2.75. In the cases we reviewed, there often does not appear to have been an attempt to explain to the customer why the increase is justified, and in particular how the very large increases were calculated.

2.76. All suppliers indicated their call centre agents had some flexibility and discretion to alter the payment levels should a customer phone to complain. Suppliers explained that in this way they were able to tailor payment plans individually to customers and to listen to individual needs.

2.77. While, as noted above, it is clear that in many cases suppliers were willing to agree changes, this policy was not being applied consistently. Our concern is that these cases may be indicative of a general lack of understanding in call centres about the basis for direct debit payments.

## Management information

2.78. A further concern for us was that the suppliers did not appear to have the ability to interrogate management information to a sufficient level of detail in order for us to probe this aspect further. It was impossible to get a clear picture of how many resets were on the basis of complaints, or on what basis the complaints were made as suppliers do not appear to keep data on these issues. Some record the contact as a direct debit contact, some as a customer complaint, but none break these contacts down to the specific issue. Without effective logging of the issues, suppliers cannot identify for themselves where problems might be occurring to enable them to take action. This was one of the aims we had in introducing complaint handling standards<sup>12</sup> which came into force in October 2008, and we are disappointed that suppliers are not making effective use of the information on complaints they are now required to collect.

## Conclusion

**2.79. We urge all suppliers to ensure that customer service staff have access to the information necessary to enable them to explain clearly to customers the basis of their direct debit payment and the implications of any changes. Suppliers should be willing to discuss changes to direct debit rates but reductions should only be made where the customer has had the implications clearly explained to them. All such communications should be followed up in writing.**

## Policies on Refunds of Credits

2.80. Some customers had what they considered a very high amount of credit on their account, and yet were still sent notification that their direct debit would be increased.

2.81. Suppliers responded to us on this issue by saying that they would generally automatically refund credit on an account at the end of the customer's billing year, but not before. They all said that they would be cautious of refunding a credit going into winter. Some suppliers had an amount above which a refund was automatically triggered, so long as there was a recent actual meter reading for the account. The table below summarises suppliers' credit refund policies.

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<sup>12</sup> See:

[http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=The+Gas+and+Electricity+\(Consumer+Complaints+Handling+Standards\)&Year=2008&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=3500212&ActiveTextDocId=3500212&filesize=44434](http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=The+Gas+and+Electricity+(Consumer+Complaints+Handling+Standards)&Year=2008&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=3500212&ActiveTextDocId=3500212&filesize=44434)

**Table 1**

Supplier	Automatic credit refund at year end	Manual credit refund
British Gas	Yes, if actual reading and over £200 in credit	If customer makes a refund request at the annual review stage, irrespective of current credit value a refund will be made.
EDF Energy	Yes, if at annual review the credit balance is £150 or more an automatic refund will be made.	If the credit balance is less than £150, customer can request refund. EDF Energy may require customers to do this in writing. Customers can track the performance on a quarterly basis and discuss their DD arrangements.
E.ON	Refund of any credit balance exceeding £5 based on one of the last two statements showing an actual reading. If credit balance is based on an estimate, an actual or customer reading will be requested for an assessment to be made.	Where a customer's account is in credit and a meter read is provided. Customer is cautioned on effect this may have on their account.
npower	Where credit balance is > £60 and based on customer or actual reading a refund will be automatically made	If credit balance is <£60, then if requested by a customer a refund will be made. Credit balance may however be used to offset one fuel against another prior to a refund being made.
ScottishPower	At annual review, if credit balance exceeds three months worth of payments then an automated refund will be sent. If less than three months worth, then the credit is rolled forward unless customer requests otherwise.	Refunds can be made upon receipt of a customer request where a meter read is provided.
SSE	If credit balance >£100 based on actual reading and the customer payment level is to remain at the same level or reduce, then automatic payment issued. If the monthly payment amount needs to be increased then the credit balance will be used to keep the payment low. Annual reassessments done as near as possible to actual reading.	Refunds can be made upon receipt of a customer request. A reading may be requested from customer where one is not on the system.

2.82. All of the suppliers stated they operated some form of automatic refund policy relating to credit balances. They all had a 12 month year end / anniversary payment plan. The main policy variation relates to the thresholds applied for these automatic refunds, with E.ON having a refund threshold of only £5, while British Gas require a credit of £200 before an automatic refund would be triggered. ScottishPower applies a more 'tailored' threshold - rather than selecting a specific cash figure for an automatic refund, the threshold is set at three months of individual customer consumption.

2.83. The question of the appropriate level of credit is complex and depends on other elements of the way the suppliers' processes work including the timing of the payment year. For example, E.ON uses a Spring (April - June Quarter) to Spring year irrespective of when the customer switches to direct debit. Given they will be doing the reassessment at the end of the winter it makes sense that they can be more confident in refunding any credit. Other suppliers have a twelve month payment year from when the customer signs up. Although suppliers claimed that they were seeking to achieve a zero credit balance at the end of payment year, if the anniversary date falls just before the winter there may be good grounds for not wanting to provide a refund. However, this is not explicit in suppliers' refund policies.

2.84. Manual refunds in response to customer requests also showed a marked variation in policy across the suppliers. All of the suppliers described manual refund processes. Of these, EDF Energy's documentation indicated this would only be possible if the customer wrote in to request a refund where the customer had less than £150 in credit. EDF Energy have subsequently told us that they will provide a refund where this is requested over the phone. The remainder stated refunds would be provided upon request.

2.85. Again, the key issues here appear to be transparency and communication. There are often very good reasons why a customer would prefer to hold a credit balance going into winter, or would see the point of only refunding credit at their annual review, or be happy to be given the choice of whether to have a credit refunded or rolled into the next year, with a lower payment level as a result. However, suppliers have failed to give this information and advice clearly and consistently to their customers.

**2.86. We expect suppliers to look carefully at their refund policies to ensure credits are not being unreasonably withheld and that the grounds on which refunds will be made are explained clearly to customers.**

### 3. Action to address problem areas

As set out in the previous chapter we have identified a number of aspects of best practice which suppliers need to follow in order to address the issues identified. Our initial view was that these issues were best taken forward through self-regulation. However, the proposals put forward by the ERA fell short in a number of critical areas. We are therefore now consulting on whether licence or other regulatory action is required, and if so, in what form. In addition, given that a lack of transparency and poor communication lie at the heart of the problem, we are publishing in this report best practice standards for suppliers and advice for consumers.

#### Question box

1. Is a licence condition needed in this area? Please give reasons.
2. Do you consider that suppliers could deliver the improvements we have identified through self-regulation? Please give reasons.

3.1. There are no current licence obligations which are directly relevant to direct debit arrangements and hence no scope for enforcement action.

3.2. Our focus in assessing the way in which monthly direct debits operate has therefore been on action to make them work better and in consumers' best interests. The messages in this document, particularly those which highlight best practice should cause suppliers to improve their approach. But we also need to be confident that suppliers will put things right quickly. This chapter sets out the action we consider necessary at all levels – industry, regulatory, and by a better informed consumer.

### Summary of best practice

3.3. In Chapter 2, we identified best practice in a number of areas. This is summarised below:

#### Action to ensure payments are set at an appropriate level

- suppliers should ensure that reassessments are carried out on a timely basis.
- suppliers should provide flexibility on the timescales over which any outstanding amounts are recovered.
- suppliers should ensure they have regular actual meter readings and encourage meter readings by customers.
- suppliers should look at ways to get more robust usage information for new customers.



**Action to improve transparency and communication**

- suppliers should provide individual explanations to customers of the basis on which their direct debit payments have been reassessed.
- suppliers should provide clear explanations of how direct debit works, including when customers move onto direct debit.
- when notifying customers of revised payment levels, suppliers should make clear that customers can contact them to discuss any concerns.
- customer service staff should have access to the information necessary to enable them to explain clearly to customers the implications of any changes to their direct debit payments.

**Refunds of credit**

- suppliers should ensure that credits are not unreasonably withheld.
- suppliers should set out clearly what their refund policies are.

3.4. These requirements are in line with the standards we propose to put in place following our energy retail probe. **We expect suppliers to be working towards this best practice now.**

**Discussion with suppliers and the ERA**

3.5. Suppliers, both in our meetings with them individually, and collectively with Consumer Focus, have acknowledged that they can improve their generic communications to customers. Suppliers in a competitive market should be striving for continuous improvement in their customer service. For some suppliers at least, that does not appear to have been the case in this area. A number of them do not appear to acknowledge, or see concerns with, their communications to individual customers. When pushed on whether they could provide more detailed, tailored information to individual customers when a direct debit is reassessed, most suppliers have argued that this would involve changes to their systems, particularly IT systems, which might take a long time and involve significant expense.

3.6. We have also had a number of exchanges with the industry representative body the ERA about collective action by suppliers to address the problem areas we have identified. The ERA, and the main six domestic suppliers, have been receptive to making some changes, and the ERA sent us "Energy Suppliers' Commitment on Direct Debit Arrangements" agreed by all suppliers (See Appendix 3).

3.7. This commitment would improve on the current position and reflects some of the elements of best practice we have highlighted to the industry during our review of direct debit arrangements. However, in our view, it does not go far enough, in particular by not requiring suppliers to provide a detailed individual explanation of the basis for reassessment of direct debit payment levels, and it lacks an enforcement mechanism, beyond individual consumers complaining ultimately to the energy ombudsman.

3.8. Although the Commitment statement provided by the ERA is a step in the right direction, there needs to be a clear drive within the industry to match and improve on best practice.

## **A need for further regulatory action**

3.9. As discussed above, competition between suppliers and the benefit to them of monthly direct debit arrangements should in principle lead to continuous improvement. But the problems we have seen and the concerns that self-regulation will not deliver have led us to consider whether further regulatory action is required. We are now consulting on this.

3.10. Given the importance of making direct debit arrangements work, and the step change required involving changes to suppliers' systems, we consider that **a licence condition may be necessary** to ensure that the interests of existing and future consumers are protected. A licence condition could reinforce the need for change and enable enforcement action in the event of systemic problems in a supplier's operation of direct debit arrangements or excessive delays in delivering the improvements we consider necessary.

3.11. **We are therefore consulting now on whether there is a need for a licence condition and if so, its potential scope.** There are different options for licence obligations and these are described in Chapter 4.

## **Other Action**

### **Consumer protection legislation**

3.12. Although, as noted above, there are currently no licence obligations in this area, we have also investigated whether the supply companies, in behaving in the way they did, may have breached consumer protection legislation.

3.13. We examined the Unfair Terms in Consumer Contracts Regulations 1999 and scope for action here. These prohibit the inclusion of terms which, contrary to requirements of good faith, cause a significant imbalance in the parties' rights and obligations under a contract to the detriment of the consumer. We also examined the recent Consumer Protection against Unfair Trading Regulations 2008. In particular, Regulation 6 entails suppliers properly explaining the way that direct debits work in their marketing and / or contractual material.

3.14. Ofgem has powers under the Enterprise Act 2002 to take action in relation to this consumer protection legislation. However, it should be noted that there is no immediate sanction for breach of this legislation. The process would involve writing to suppliers to give them an opportunity to rectify the problem. If a supplier failed to do this, it is only then that Ofgem could then apply to the court for an enforcement order. If there were a subsequent breach of an order, the court would decide on the action to be taken (which might include a fine).

3.15. While we do not consider there is scope for any action at this stage, we will nonetheless be writing separately to each of the suppliers to remind them of their obligations under the legislation.

### **Action on individual complaints**

3.16. We have focused our attention on action necessary to improve direct debit arrangements and to address the concerns highlighted in this report and prompted by individual consumers, the Chairman of the Select Committee, and a national newspaper. Ofgem cannot pursue individual complaints on consumers' behalf. Suppliers have regulatory obligations they must meet in handling consumer complaints, and we would urge any consumer who remains concerned with the calculation and basis of their direct debit payment or their credit balance to contact their supplier. If they are still not satisfied following this contact, consumers have a right to take their case to the Ofgem approved Energy Ombudsman. Ofgem required the industry to set up the Ombudsman scheme to resolve disputes on a consumer's behalf where the complaint had not been capable of being resolved directly with the supplier. The Ombudsman can get things put right, seek an apology to the customer and in some cases, compensation. Full details of action consumers can take is at Appendix 2.

3.17. We think it is important that individual consumers are able to question, and if necessary challenge, their payment levels. To aid this, we have developed an information sheet for consumers of factors to consider and questions to ask about direct debit arrangements. We plan to update the note in due course in the light of experience, improvements in practice amongst suppliers, and feedback from consumers, Consumer Direct, Consumer Focus, and the Energy Ombudsman. This has been included with a table of direct debit policies and practices in the form of an information leaflet for consumers. Both of these are set out in Appendix 2, alongside details of the Direct Debit Guarantee. Combined with the other improvements we highlight in this report and action we are proposing to take as a result of our energy retail probe, these should help consumers have more control over direct debits.

## 4. Consultation on potential Licence Options

If Ofgem concludes that a licence condition is required then there are a number of options for the scope and form, the coverage and timescales for implementation on which we are seeking views.

### Question box

1. Which of the options A, B or C do you consider would be the better approach? Are there any other models we should consider?
2. Should any obligation apply to small business consumers as well as domestic consumers?
3. What would be a realistic timescale for implementation?

4.1. As discussed above, given the failure of industry to deliver a satisfactory self-regulatory solution, we are considering whether a licence condition may be needed in this area. If we conclude that a licence condition is needed, then there are a number of options for how this would be drafted, on which we are seeking views.

### Scope and form

4.2. As discussed above, the central problems that we identified were a lack of transparency and poor communication by suppliers. In proposing a licence condition, one of the issues is whether to focus on that aspect or to put in place a broader obligation. We set out below three options on which we would welcome views alongside any other models or combination of elements in the options here respondents believe might be more appropriate.

### Option A

4.3. A targeted licence condition which addresses how suppliers communicate changes to direct debit payments. This might say:

“When setting and amending direct debit payments suppliers must provide customers with a clear statement of the basis for these payments (including assumed usage)”.

4.4. This addresses the biggest current problem and improved transparency should create strong incentives to ensure any wider issues are addressed. However it may not be sufficiently broad to address future issues, as payment methods evolve.

**Option B**

4.5. A broader licence condition which goes beyond communication and which sets out high level expectations but leaves details of how to achieve this to suppliers, allowing scope for innovation. This type of licence condition might also best address future changes in payment methods – the problems identified today may not be the same in future. Such an obligation has the advantage of greater flexibility but further guidance may be needed to avoid creating undue regulatory uncertainty for the industry and consumers about what may or may not constitute a licence breach. In particular, we would want to make clear that individual explanations are required and not simply generic materials.

4.6. Such a licence condition might say:

"Suppliers must take all reasonable steps to ensure that customer payment levels are based on the best available information and are explained clearly and accurately. Any credit built up by a customer should not be unreasonably withheld".

**Option C**

4.7. The third option would be to have an obligation to comply with a code of practice, with detailed requirements described outside the licence. The code of practice could be written by Ofgem, or by the industry. If written by the industry, there is then a further question of whether it would be with or without approval by Ofgem or an ability by Ofgem to instigate changes. This again would allow more detailed requirements to be incorporated, but in a way which can then be modified as circumstances change. The code could provide the basis for a self-regulatory approach in the future. The disadvantage of this approach is that a code would require much more work upfront and would be more detailed and prescriptive.

Such a licence condition might say:

- "Suppliers must ensure that any arrangements involving direct debit payments comply with the direct debit code of practice, as modified from time to time by Ofgem.

These are then options for how the "direct debit code of practice" might be defined. Possible options would be:

- a. "put in place by Ofgem pursuant to this condition and following consultation with suppliers, Consumer Direct, Consumer Focus, and the Energy Ombudsman"; or
- b. "agreed between energy suppliers and published on their websites"; or
- c. "submitted to Ofgem by suppliers within x days of the introduction of this condition and approved by Ofgem, following consultation with Consumer Direct, Consumer Focus, and the Energy Ombudsman".

## Coverage

4.8. Our review of direct debit arrangements has concentrated on the six main domestic energy suppliers. We therefore consider that at the very least any new licence condition should apply to those suppliers in relation to domestic customers. However, direct debit payment methods are used by smaller suppliers. Unless it was clear that the introduction of such an obligation would create a disproportionate burden on small suppliers, then there would seem to be a case for applying any new consumer protection across all suppliers.

4.9. Similarly our review focussed on domestic customers. Many micro businesses face similar issues to those experienced by domestic customers. However, we have not collected any evidence about micro businesses' experience of direct debits at this stage. There is therefore a question as to whether any obligations should also apply in relation to small businesses. If it were, then our view is that the definition of 'consumer' in the Consumers, Estate Agents and Redress Act 2007<sup>13</sup> would be the most appropriate definition, but we would welcome views.

### 4.10. **We would therefore be grateful for views on:**

- whether the obligations should apply to all suppliers irrespective of size or market share; and
- whether the obligations should apply to the small business market.

## Timescales

4.11. We are also interested in views on the timescales for implementation of this condition. Our view, following all the information we have analysed and our concerns as set out above, is that a licence condition is required as soon as practical. As noted above, some suppliers have said that to produce individual statements would involve major changes to their systems. Based on the information provided, we believe a target implementation date of the end of the calendar year is stretching but reasonable. However, we would welcome views.

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13 Section 3. See

<http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=Consumers+Estate+Agents+and+Redress+&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=3389445&ActiveTextDocId=3389445&filesize=275423>

4.12. Regardless of the need for system changes, we want to see suppliers taking action immediately on implementation of best practice as highlighted throughout this document.

### **Consultation on options**

4.13. Ofgem seeks, on the basis of the actions outlined above, views from parties on these options.

4.14. We are consulting on the action we plan to take and the scope of a potential licence condition. Responses should be sent, preferably by e-mail to Sean Baker, Enforcement and Competition Policy, at [sean.baker@ofgem.gov.uk](mailto:sean.baker@ofgem.gov.uk) or by post to him at 9 Millbank, London, SW1P 3GE by 8 May 2009.

## Appendices

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4	The Authority's Powers and Duties	46
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## Appendix 1 - Consultation Responses and Questions

1.1. Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter heading and which are replicated below.

1.3. Responses should be received by 8 May 2009 and should be sent to:

- Sean Baker
- Enforcement and Competition Policy
- 9 Millbank
- London
- SW1P 3GE
- 020 7901 7313
- [sean.baker@ofgem.gov.uk](mailto:sean.baker@ofgem.gov.uk)

1.4. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website [www.ofgem.gov.uk](http://www.ofgem.gov.uk). Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

1.6. Next steps: Ofgem will consider the responses to this consultation, and the action which should be taken. Any questions on this document should, in the first instance, be directed to:

- Sean Baker
- Enforcement and Competition Policy
- 9 Millbank
- London
- SW1P 3GE
- 020 7901 7313
- [sean.baker@ofgem.gov.uk](mailto:sean.baker@ofgem.gov.uk)

or

- Andrew Burgess
- Head of Enforcement and Competition Policy

- 9 Millbank
- London
- SW1P 3GE
- 020 7901 7159
- [andrew.burgess@ofgem.gov.uk](mailto:andrew.burgess@ofgem.gov.uk)

## Questions

### **CHAPTER: Two**

**Question1:** Do you agree with our analysis of the issues?

**Question 2:** Do you agree with the elements of best practice we have identified (described here and summarised in chapter 3)?

**Question 3:** Are there any other elements of best practice you think we should consider?

### **CHAPTER: Three**

**Question1:** Is a licence condition needed in this area? Please give reasons.

**Question2:** Do you consider that suppliers could deliver the improvements we have identified through self-regulation? Please give reasons

### **CHAPTER: Four**

**Question1:** Which of the options A, B or C do you consider would be the better approach? Are there any other models we should consider?

**Question2:** Should any obligation apply to small business consumers as well as domestic consumers?

**Question 3:** What would be a realistic timescale for implementation?

## Appendix 2 – Consumer information



What can you do to make sure you are paying the right amount? What can you expect from your supplier when they review your payments? And what happens when things go wrong?

Ofgem is telling your supplier to make changes, but in the meantime ...

### Direct debits What you need to know.

- **Read your electricity and gas meters regularly** - by providing regular meter readings to your supplier you can make sure you are only paying for the energy that you have used. This also gives your supplier an accurate starting point for reviewing your monthly direct debit payments. Contact your supplier if you need advice on how to read your meter.
- **Check your bills when they arrive** - if your bills are estimated, check the estimate against your meter. If they are different, contact your supplier to give an actual reading.
- **Let your supplier know if anything happens in your home that may make you use more or less energy** - for example if your children leave home or if you have loft insulation fitted.

#### What can you do?

- **Don't be afraid to ask questions and if necessary complain** - if you are unhappy with any change to your direct debit or have any questions about why it has changed, contact your supplier. And if you receive an answer you don't understand or don't agree with, the Energy Ombudsman may be able to look at the complaint.
- **Ask about a refund** - your supplier will have their own policy on the level of credit you can be in before a refund will be offered automatically. Before requesting a refund remember:
  - 1) any credit built up over the summer will be used to pay for higher energy use over the winter, and
  - 2) if your supplier has recently changed their energy prices this may affect your future bills.
- **Think about what matters to you** - the table overleaf shows some of the different ways the supply companies handle direct debits. If you are unhappy with your supplier's approach, you might like to consider switching.



Direct debit is one of the **quickest and easiest** ways to pay your energy bills and over 40% of customers pay their energy bills in this way. You will also get a discount simply by paying by Direct Debit.

## What can **you** expect from your supplier?

- Information on how your direct debit is calculated – Your supplier should clearly explain this. If you are an existing customer, your direct debit payments will be based on energy use over the previous year including any price changes. If you are a new customer, the payments may be based on a number of things such as the number of rooms and/or the number of people living in the property.
- Information on why your direct debit needs changing and by how much – don't be afraid to contact your supplier if you have any questions.
- Regular reviews of your direct debit payments – these are usually completed twice a year – Information on each of the suppliers review periods can be below.
- Information on when you can expect a refund if your account is in credit - details of each of the suppliers' current refund policies can be found below.
- Information on what will happen if you still owe money at the end of the payment year – some suppliers may take this money from your account as a lump sum and others will spread the debt over the next year.
- A clear response to any question or complaint – if your supplier is unable to answer your question or resolve your complaint to your satisfaction within 8 weeks, you can ask that your complaint be referred to the Energy Ombudsman.

## And finally... Tell your supplier if your situation changes

If your situation changes and you are concerned about paying your bills, you should contact your supplier. They will be able to give you advice - for example, on the different payment methods and tariffs available, eligibility for a social tariff and grants for insulation. The Home Heat Helpline is also available to offer advice if you are concerned about paying your energy bills. The Home Heat Helpline can be contacted free on: 0800 33 6699

## Suppliers current direct debit policies

	British Gas	EDF Energy	E.ON	NPower	ScottishPower	SSE
Number of meter readings per customer per year	2	2	2	2	2	1
Number of attempted meter readings per year	4	4	4	2	2	2
Time of the year when credit should balance	Anniversary date	Anniversary date	Spring annual review date	Anniversary date	Anniversary date	Anniversary date
Automatic credit refund amount at review date	£200	£150	£5	£60	3 months worth of consumption	£100
Amount for manual credit refund	At annual review, any amount, where requested	Upon request if credit less than £150	Upon request if based on meter read	Upon request if credit less than £60	Upon request if based on meter read	Upon request if based on meter read

## How well does your supplier communicate?

We have looked at the most recent information on customers' bills and other information and have rated them on how clear they are and most importantly how they explain the payment change to each customer.

Explanation of why your payment has changed	★	★	★	★★★	★★	★★★
General information on direct debit	★★	★★	★★★	★	★★	★★

## Useful contacts

Consumer Direct is the government-funded telephone and online service offering information and advice on consumer issues. Consumer Direct can be contacted on: 08454 04 05 06.

The Energy Ombudsman can deal with complaints against any of the supply companies or network operators. They may be able to deal with your complaint if you have exhausted your supplier's complaints process or if your complaint is more than 8 weeks old. They can be contacted on: 0845 055 0760

The Home Heat Helpline is a free, not for profit phone line set up to help energy customers who are concerned about paying their energy bills. The Home Heat Helpline can be contacted for free on: 0800 33 66 99.

## Appendix 3 - Billing and customer information

RI 1

SC 3

09 December 2008 12:10:59

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AS

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Page 1 of 2

[www.southern-electric.co.uk](http://www.southern-electric.co.uk)

Your Customer Account Number

Call us with any enquiries  
0800 912 3000

XX & XXX XXXXXX  
XX XXXXXXXX XXXX

U/P 3.22.13 CS 3.22

Produced 9 Dec 2008 12:12

System date 9 Dec 2008

470

**ACTUAL METER READING**

Your bill is based on an actual meter reading

**Meterline 0800 220 995 (24 hr)**  
8am - 8pm Mon - Fri, 8am - 2pm Sat  
(You can leave a message outside office hours)

**Dear Xx & Xxx Xxxxx,**

Thank you for paying by Direct Debit. You have received our maximum discount by paying this way.

This is your electricity statement for 22 May 2008 until 18 November 2008.

You owe us **£54.97**. We have reviewed your account and based on our prices and how much electricity you use, we do not expect your payments to cover your future electricity charges. Your monthly payments need to increase to £89 starting from 1 January 2009. We included your outstanding balance when we calculated your new payment amount to help spread the cost for you.

You don't need to do anything because we will take care of the arrangements.

Please turn over for details of how we have calculated your charges and monthly payment.

As part of our ongoing commitment to the environment we want to reduce the amount of paper we use and we have also listened to our customers who tell us they don't like estimated bills. So you now receive a statement every 6 months to coincide with when we have called to try to read your meter.

Since this statement covers a 6 months period we have adjusted the number of standard and discounted units, where applicable, to cover the longer period and ensure your charges are generally the same as if we had billed you over 2 separate quarters.

**Big Savings  
Big Rewards**

Ask us to supply your gas so you can enjoy all the benefits of **energyplus**. Choose from a variety of rewards and incentives including money off at Argos or support for the British Heart Foundation. Even better, these rewards won't cost you anything extra.

**Call 08457 444 555 or visit  
[www.southern-electric.co.uk](http://www.southern-electric.co.uk)**

EnergyPlus is a registered trademark of Southern Electric. The maximum discount is £20 per month. The £20 discount is available for 12 months. A call to our national helpline will give you more information on how to take advantage of the offer.

Don't take chances. Buy a carbon monoxide alarm. [www.hse.gov.uk/gas/domestic](http://www.hse.gov.uk/gas/domestic)

## Direct Debit Arrangements

27 March 2009

RI 1

SC 4

09 December 2008 12:10:59



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### Have a question or moving home?

It's quicker and easier for us to answer your questions straightaway if you call us on the number below. Or if you are moving home please call us on the same number with your final meter reading and new address details. Thank you.

0800 912 3000

Customer Service, Southern Electric,  
PO Box 7506, Perth PH1 3QR

[www.southern-electric.co.uk](http://www.southern-electric.co.uk)

Please note: to help us improve our service further, we may record customer phone calls from time to time.

### Emergencies

Power out? Call 08000 7272 82.

### Our commitment to you

If you would like to know more about the service standards we promise to all our customers, visit our website for details of our Domestic Energy Customer Charter or call us.

If we have let you down in any way, please call us. If our adviser can't help, please ask for a manager. If you remain unhappy, write to our Head of Customer Service at Inverlmond House, 200 Dunkeld Road, Perth PH1 3AQ or send an email to [headofcustomerservice@southern-electric.co.uk](mailto:headofcustomerservice@southern-electric.co.uk). If you are still not satisfied, you can contact the Energy Ombudsman on 0845 055 0760 or [www.energy-ombudsman.org.uk](http://www.energy-ombudsman.org.uk) or Consumer Direct who can offer impartial, clear and practical advice on 08454 04 0506 or [www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk)

VAT registration number 553 7696 03

Bill date and tax point date 26 November 2008

### Thumbs up to great value →



Thank you for paying by monthly direct debit.



Don't miss out on your energyplus reward. Call us to find out more.

This is how we have calculated your new payment amount:

	Estimated usage (units)	Unit price (pence)	Total £
Standard energy	7598.00	12.59	956.59
Discounted energy		12.59	
Monthly Direct Debit Discount at 6%			-57.40
Standing charge at 15.07p for 365 days			55.01
VAT at 5%			47.71
Debit balance carried forward			54.97
Total cost			1056.88
Less your next payment of £75			981.88
New monthly payment [981.88 ÷ 11 payments] = £89			

Southern Electric and Southern Electric Gas are trading names of the Scottish and Southern Energy Group of which SSE Energy Supply Limited Registered in England & Wales No. 3757502 and Southern Electric Gas Limited Registered in England and Wales No. 2716495 are members with their Registered Offices at 55 Western Road Reading RG1 8BU  
[southern-electric.co.uk](http://southern-electric.co.uk)



## Answering your questions

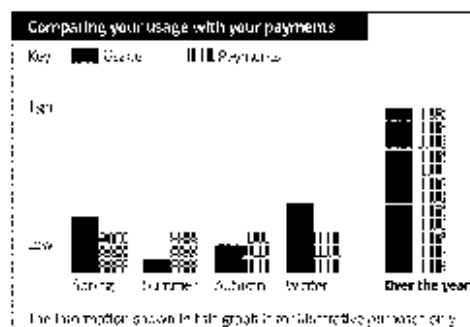
### → How does Direct Debit work?

Each year, you'll usually use more electricity and gas in winter and less in summer. Rather than paying a high bill in winter and a low bill in summer, paying by fixed monthly Direct Debit lets you spread the cost evenly over the year. And we give you a discount for paying this way.

#### Here's how we work out your fixed monthly Direct Debit

- 1 We work out how much electricity and gas we think you're going to use over the next 12 months.
- 2 Then we divide this amount into 12 equal monthly Direct Debits.

So over the whole year, your payments should equal your usage.



#### Why do I have a credit or a debit balance?

Each year, you'll usually build up a credit over summer, as you're not using as much electricity and gas. Over winter, when you're using more, you'll use up that credit, so in spring you should be back to around zero.

### → How can I keep control of my energy bills?

You could save both energy and money by becoming more energy efficient. To see what everyday changes you could make around your home, just visit [eonchallenge.com](http://eonchallenge.com) to:

- save energy and cut your bills with the help of our Interactive House
- get a personalised home energy efficiency report that shows you where you could save energy
- check how much energy you're using with our online energy tracker.

### → Why is my payment changing?

You're using less electricity and gas than we expected, so we need to lower your Direct Debit. The new amount should cover the cost of the electricity and gas we think you're going to use over the next 12 months, without building up too much credit. Please note: if you have an outstanding balance on your account, you may not be able to change your supplier.

### → I can't see the question I wanted to ask

If you'd like to ask us a different question or talk about your payment change, please call us on 0845 300 8143.



**Energy Suppliers' Commitment on Direct Debit Arrangements**

- Suppliers will clearly explain how their direct debit payment schemes work and make information available to ensure customers are able to make informed choices about Direct Debit schemes.
- Suppliers will base individual payment amounts on the best available consumption information (either actual consumption history of the customer, based on valid supplier and/or customer readings; information provided by the customer e.g. property/lifestyle; or an estimate based on standard industry usage profiles).
- Suppliers will review monthly direct debit payments on a regular basis (for example twice a year) to ensure that customers' payments are sufficient to help customers budget and pay for their energy usage over the annual billing cycle. This will apply, equally, where prices increase or decrease, subject to the agreement made with the customer. The supplier will communicate with their customer if changes need to be made.
- Suppliers will clearly explain to customers, in advance, any change in payment amount, discuss the amount at the customer's request and agree to amend it where appropriate in lines with the terms of the direct debit scheme.
- Suppliers will continue to comply with the Direct Debit Guarantee.
- Suppliers will clearly explain to customers their refund policies and make information on them available.
- Suppliers will always be mindful of the customer's ability to pay when discussing payment amounts, whilst ensuring that payments are sufficient to cover ongoing usage.
- Suppliers will discuss alternative products and payment methods, where these may be more suitable for the customer, if necessary.
- Suppliers will deal with any queries or complaints promptly and courteously.
- Suppliers will ensure that their staff training activities reflect their communications to customers.
- Suppliers will provide clear contact details for the customer to discuss any concerns regarding their Direct Debit payments.

Energy Retail Association  
February 2009



## Appendix 4 – The Authority's Powers and Duties

1.1. 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).

1.2. 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>14</sup>

1.3. 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>15</sup>.

1.4. 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 existing and future consumers, 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.

1.5. 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>16</sup>;
- the need to contribute to the achievement of sustainable development; and
- the interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.<sup>17</sup>

<sup>14</sup> entitled "Gas Supply" and "Electricity Supply" respectively.

<sup>15</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>16</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.

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1.6. 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>18</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; and
- secure a diverse and viable long-term energy supply.

1.7. 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.

1.8. 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>19</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>17</sup> The Authority may have regard to other descriptions of consumers.

<sup>18</sup> or persons authorised by exemptions to carry on any activity.

<sup>19</sup> Council Regulation (EC) 1/2003

## Appendix 5 - Feedback Questionnaire

1.1. 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:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments?

1.2. Please send your comments to:

**Andrew MacFaul**  
Consultation Co-ordinator  
Ofgem  
9 Millbank  
London  
SW1P 3GE  
[andrew.macfaul@ofgem.gov.uk](mailto:andrew.macfaul@ofgem.gov.uk)