Consumer Focus response to the Spring Package – Addressing Consumer Protection Issues

April 2011

About Consumer Focus

Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland. We were formed by the Consumers, Estate Agents and Redress (CEAR) Act 2007.

We operate across the whole of the economy, persuading businesses, public services and policy-makers to put consumers at the heart of what they do.

Consumer Focus tackles the issues that matter to consumers, and aims to give people a stronger voice. We don't just draw attention to problems – we work with consumers and with a range of organisations to champion creative solutions that make a difference to consumers' lives.

Consumer Focus has strong legislative powers. These include the right to investigate any consumer complaint if they are of wider interest, the right to open up information from providers, the power to conduct research and the ability to make an official super-complaint about failing services.

We receive about a third of our funding from BIS. Funding also comes from licenses paid by energy suppliers and the postal industry. We are also able to raise our own funds – for example, through externally funded projects.

Introduction

Consumer Focus supports the roll-out of smart meters as a way to end estimate billing – a major source of consumer complaints – and as a tool to help deliver the public policy goals of carbon reduction, security of supply and affordable energy. We also see great opportunities to improve the delivery of social assistance to vulnerable and low-income households and to provide better customer service and value for money tariffs to prepayment meter (PPM) customers.

However, we have consistently raised concerns, that without the right regulatory framework, technology and the appropriate roll-out mechanisms, smart metering could result in increased detriment to customers and failure to realise the proposed benefits. In particular, we have felt it unacceptable that an estimated quarter of a million smart meters have already been installed in Great Britain without smart-ready protections being in place.

We welcome the Spring Package as a first step but believe significant further work is still needed. The protections around remote functionality should help safeguard customers, especially the most vulnerable, from energy suppliers misusing the ability to remotely disconnect customers, and switch people to prepayment. However, we would like to see stronger protections around load limiting, and standards for information provision, which are outlined in our response below.

We are supportive of the high-level approach to data use and access outlined and the work that is being carried out in this area. In particular the recognition that as well as privacy risks for the consumer, data access has significant consequences for competition in the energy supply and especially services market. But work here needs to progress more quickly. Consumer Focus's investigation into energy companies' data practices found that none of the big suppliers who are installing smart meters, or the lead small suppliers, fully complied with the Data Protection Act and good practice. Also, none gave customers the right to opt-out of sharing their sensitive data. While suppliers are now starting to change their practices, developments are still slow.

We appreciate the challenges involved in ensuring interoperability and support much of the proposed approach. However we would urge Ofgem to investigate other avenues to protect PPM customers before a final decision is made. This is to ensure that the right balance is struck between protecting PPM users from being locked into a given supplier and ensuring they are able to access the benefits of smart metering.

We also believe that greater prioritization needs to be given to small supplier protections. Many micro-businesses, such as the corner shop, the local publican or High Street hairdresser face much the same challenges as domestic customers. This needs to be recognised.

Our responses to the Summer Prospectus and presentation to the Energy Minister Charles Hendry MP outline in full the areas where we feel further work is needed. This includes around: the smart meter installation visit; sales and marketing; the costs and benefits to customers especially those on low incomes; data access and use; tariff complexity and longer-term contracts; ensuring security; back-billing; and health issues. Our positions on these issues are outlined in full on our website at **http://www.consumerfocus.org.uk/policy-research/energy/smart-meters**

We have not commented on these consumer issues in this response as we are reviewing our position in light of the recent decision document from the Department of Energy and Climate Change (DECC). We will issue a response to the decision document however and feed in our thoughts on tariff complexity and smart switching as part of the Retail Market Review.

We look forward to continuing to work with Ofgem and Government to help ensure that all consumers are protected and able to benefit from the roll-out of smart metering.

Prepayment and remote disconnection

The importance of protections for customers using prepayment should not be underestimated. This is a widely relied upon payment method; there are already more than six and a half million prepayment meter (PPM) customers in Great Britain, of which around 3.9 million use electricity and 2.7 million gas PPMs[1]. Consumer Focus estimates that this equates to around 8.8 million people living in homes who rely on prepaid energy. The proposed protections for those struggling to pay are of growing importance as on average more than 8,500 prepayment meters are installed every week to recover debt[2]. But it should be noted that the vast majority of people who use prepayment do so not because they were forced to as they were struggling financially, but for other reasons, such as they inherited the meter or they chose to have one. Despite dissatisfaction with poor customer service and higher cost tariffs, prepayment is a popular payment method, and many customers request this payment option as it gives them greater financial control[3].

Our Consumer Focus March 2010 survey also indicated that at least a third of consumers would be interested in pay-as-you-go (PAYG) energy if the price was comparable with Direct Debit and it was easy to top-up[4]. The Government's decision that all smart meters should have prepay installed as a standard feature could enable further expansion in the number of customers who use prepayment and customer safeguards should anticipate this.

Smart metering could provide a rare opportunity to help revolutionise the PAYG energy market and remove historical barriers to competition in Great Britain. If no additional costs to serve are added (such as separate displays or key pads), it should not only reduce the cost of prepayment tariffs but also help tackle barriers to consumer interest in this payment method. This is because the customer's meter will no longer have to be exchanged if they move to or from prepayment, and consumers should get access to a greater range of top-up options – over the phone, internet, via a cash point – improving convenience. Greater choice of PAYG energy products should also reduce the stigma associated with this payment method. All these factors in turn could open up the PAYG energy market and further drive down prices and improve customer service[5]. We are

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[1] Source: Ofgem Social Obligations Monitoring Statistics Q3 2010 statistics

[2] Source: Ofgem Social Obligations Monitoring Statistics Quarter 4 2009 – Quarter 4 2010 there were 444 342 PPMs installed to recover debt (8545 per week).

[3] *Cutting back, cutting down, cutting off – Self-disconnection among prepayment meter users.* Consumer Focus, July 2010, **http://consumerfocus.org.uk/g/4lx**

[4] ICM online survey for Consumer Focus of 1,839 customers, March 2010. This indicated that at least a third of energy consumers may be interested in a pay-as-you-go energy tariff (as with mobile phones) if the price was competitive with Direct Debit and they could top up easily. Experience in Northern Ireland where semi-smart meters have been introduced suggests that pre-pay is the payment method of choice for many consumers. Around 30 per cent (230,000) of all electricity consumers were using the keypad prepayment meters by mid-2009 with new connections continuing at a rate of 2,000 per month. About 58 per cent are on low incomes but 32 per cent are middle or higher incomes including 17 per cent who are 'wealthy achievers' (Acorn classification).

[5] *Cutting back, cutting down, cutting off – Self-disconnection among prepayment meter users.* Consumer Focus, July 2010, **http://consumerfocus.org.uk/g/4lx**. Annex 4.

keen to encourage innovation of this kind but protections must also be robust to ensure that all customers are safeguarded. It is from this perspective that we respond to this consultation.

Question 1: Do you agree with our proposal to issue guidance on safe and reasonably practicable and require suppliers to have regard to this guidance through licence amendment? If not, what else is required?

Yes. We fully support the proposal to develop industry-wide guidance on the definition of 'safe and reasonably practicable', and require suppliers within Supply Licence Condition (SLC) 27 to have regard to this.

The ability to switch customers remotely to prepayment removes the necessity for energy companies to physically visit the home to switch the meter. The home visit currently acts as an important consumer safeguard in the following ways:

- It enables the supplier to visit the home and personally check that it is 'reasonably safe or practicable' for the customer to use prepayment. This can be established both by face-to-face interaction with the customer or other household members or physically viewing the position of the meter
- Where the customer is present, it allows for a face-to-face demonstration on how to use the prepayment functionality and an exchange of information about using prepayment effectively and debt repayment eg how to top-up, safely re-enable supply etc
- The cost, inconvenience and time to install the meter can act as a natural disincentive to suppliers switching customers onto pre-pay. This is particularly the case where a warrant is required
- It provides a final opportunity for the supplier to discuss alternative payment options

Guidance is also needed around likely technological innovations that may be used as solutions to enable safe and practicable use of prepayment:

- New technological solutions must be reliable and robust. Eg wireless displays cannot yet be relied upon as a mechanism to top-up or re-enable supply. Customers will still need full access to their smart meter to enable them to top-up at the meter
- Customers must be able to access technological solutions even when they don't have an energy supply. Eg internet top-up and certain kinds of phone top-up cannot be solely relied upon when a customer's electricity has disconnected. Local cash top-up will still need to be an option in this instance
- The customer must not be forced to pay for costly technological solutions which make prepayment 'safe and reasonably practicable' to use. For example, the cost of hardwiring a display should not be passed onto the individual customer. In the case of customers struggling to pay, this would only add to their debt and hardship while for others there are fairness considerations. Any protections around the moving of the PPM will require updating to recognise that cost may not just involve the moving of the meter, but other solutions such as a key pad or hardwired display

It is important to note that in the future suppliers will not need to apply to court for a warrant to enter the property. The warrant application process functions as a final external check of the vulnerability process to ensure it is working properly. It also provides consumers with an opportunity to challenge the legitimacy of the warrant for entry and there have been numerous cases where the courts have denied suppliers as a result of the consumers' representations. Suppliers will need to ensure that their internal systems continue to provide sufficient protections to consumers. Consumer Focus suggests that the Energy Retail Association members should update the Safety Net to reflect the changed processes and include this process in the annual audit. Similarly, suppliers should be required to report new information to Ofgem, as part of the social monitoring statistics, on the amount of meters switched from credit to pre-pay in a given quarter.

Question 2: Do you agree with our proposal to require suppliers, where they know or have reason to believe that prepayment is no longer safe and reasonably practicable for a customer, to offer an alternative payment method or some other form of option?

Yes. This is a very welcome proposal and helps to address noticeable gaps in the existing protections:

- It recognises that customer's circumstances can change over time such that prepayment is no longer appropriate for them to use
- It acknowledges that sometimes mistakes are made, and a customer is moved to prepayment when it is not a suitable payment method for them
- It offers greater protection for those customers, who do not use prepayment because they were/are struggling to pay and are not covered by existing licence conditions around safe and practicable

Consumer Focus PPM research reinforces the need for this. Our investigation found that there are an estimated 16 per cent of consumers with PPMs self-disconnecting, some of whom include more vulnerable households for whom, PPMs, are not really safe and practicable. This is because the customer's circumstances changed or they moved into a home with a pre-existing meter, in addition to inadequate vulnerability checks. Such a licence condition will help address this problem[6].

The existing protections around 'safe and practicable' only apply where a PPM is installed and 'the supplier is aware or has reason to believe that the customer is having or will have difficulty paying all or part of the charges for their energy supply' (SLC 27.5/27.6). Consumer Focus believes that protections around safe and reasonably practicable should apply to all customers when they are switched, not just those struggling to pay.

As noted, while debt is a cause for customers moving onto prepayment, it is not the main reason customers use this payment method. Our PPM research found that customers use prepayment for a variety of reasons. These included: they had to as their landlord wouldn't allow them to change; they had inherited meters when they moved into the property and had not got round to changing them; their supplier had wanted a security deposit to shift the meter; or because they wanted one because it helped them budget more easily for example. The findings of our research are below[7]:

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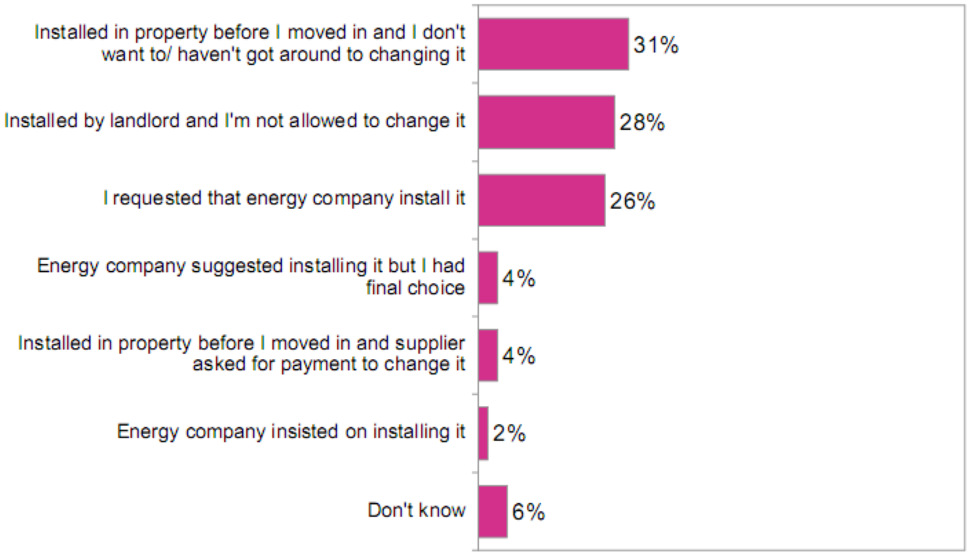
[6] *Cutting back, cutting down, cutting off – Self-disconnection among prepayment meter users.* Consumer Focus, July 2010, **http://consumerfocus.org.uk/g/4lx**

[7] Ibid px

Figure 2: Origin of PPM installation



Base: All households with PPM aware of reason for installation (629)

We welcome the protection that the proposed new Licence Condition 28.1A offers to customers who may not have had their meter installed as they were struggling to pay or who are not in financial difficulties now. It will ensure that retrospective action is taken by suppliers if they become aware or have reason to believe that prepayment is no longer safe and reasonably practicable in all circumstances of the case. It should arguably help incentivise energy companies to ensure that the meter is in a safe and reasonably practicable location, in the first instance. This is welcome.

Further work needed

- Ofgem needs to consider further where the cost will fall of making prepayment safe and practicable eg the cost of hardwiring a display, adding a separate key pad or moving the meter to an accessible location. In the case of those struggling to pay their energy bills it would be particularly unacceptable for this cost to be borne by the individual customer as it could potentially push them into debt and add to their hardship. Any charge, particularly an up-front fee, may also discourage people from allowing the supplier to address the problem, potentially putting their health in danger if they are reliant on a supply of energy to stay well. This needs to be reflected somewhere in the protections.
- While we welcome this proposal, for simplicity and to afford equal and appropriate protection to all customers, we query why Ofgem has not considered expanding the safe and reasonably practicable protection to all consumers, not just those struggling to pay. We seek further clarification from the regulator why this hasn't been more explicit in the Standard Licence Conditions given the net effect of this proposal, the wide variety of reasons for prepayment installation, and the possible increase in prepay customers following the introduction of smart metering. It seems a rather circuitous approach.

Question 3: Do you have any comments on the proposed guidance regarding taking into account whether it is safe and reasonably practicable for a customer to pay by prepayment?

Our comments below are in order of the proposed paragraphs in Appendix 3 Draft guidance: prepayment only where safe and reasonably practicable. Where we have not commented we are supportive of the paragraph as it stands.

1.1

- We would welcome the guidance containing a reminder around Ofgem's robust stance on enforcement which was outlined in the Spring Package. For example perhaps a variation of: *'In our view no customers should be switched to prepayment mode inappropriately. Where a customer has been, and particularly where they are vulnerable, we are likely to consider that enforcement action would be proportionate in any case*.'
- As we understand it, the existing licence condition puts the burden of proof on suppliers to ensure that prepayment is 'safe and reasonably practicable' for the customer – stating this explicitly in the guidance may be useful

1.2

- We particularly agree with the statement that guidance is not intended to be an exhaustive checklist that is applied uniformly. Suppliers will still need to judge each case on its merits and adopt a flexible approach to ensure that customers are protected
- '...whether the customer lives in a *rural* area at quite some distance from any top-up' – suggest take out rural, as this protection should apply to all customers regardless of the degree of rurality. It would then read 'whether the customer lives at a quite a distance from any top-up outlets...'
- Last bullet (page 43) – given the discussion had by participants at the 5 April workshop on this bullet, one potential wording may be 'Relevant factors are likely to include'...'Any safety issue raised by the Health and Safety Executive (HSE). For example we are aware of advice from the HSE that it may not be safe for a Prepayment Meter to be installed in an intake room.' This avoids the need for any definition of guidance or advice
- We have strong concerns about the last paragraph on page 43. We do not think the examples selected would be safe and reasonably practicable. Contrary to the proposal, Guidance should specify that the remote top-up option using the internet cannot be relied upon alone. This is because if a customer has self-disconnected on their electricity they will not have mains supply to power a desk top computer, a lap-top without battery life or wireless internet connection. Consequently this solution would not be 'safe and reasonably practicable in all circumstances of the case.'
- Guidance should specify that reliance on landline telephone alone to top-up is also not acceptable where the phone is electricity dependent, as many new phones are
- Similarly, we do not believe that providing mobile phone top-up is a safe and practicable alternative to easy access to top-up outlets and a fully accessible meter will be appropriate where the customer is struggling to pay. While Consumer Focus research found that 89 per cent of PPM customers also had mobile phones we do not know how many were on pay-as-you-go terms. There is a distinct possibility that if customers have self-disconnected on their energy that they may also not have credit on their mobile phone. Mobile phone coverage can also be variable and online coverage checkers unreliable
- Regarding the example at the top of page 44, in addition to the suggestions around ability to re-enable supply, guidance should specify that technological innovations need to be 'safe and reasonably practicable in all circumstances of the case' eg the supplier would need to be convinced that wireless in home displays (IHDs) were as reliable as existing methods. The Energy Demand Research Project and subsequent trials have identified problems with the dependability of displays relying on wireless technologies. If the display failed the customer could be left without supply. This would be unacceptable

- We have some concerns about the explicit example that it would be safe and reasonably practicable to offer pre-pay if adults apart from the customer could use and access the meter. Consideration should be given to whether the adults who could access and operate the meter are living at home or have to drop by to top-up. A change in the able bodied person's circumstances such a family feud could leave the vulnerable person off supply. We query how suppliers would monitor this. That said, we appreciate that in some circumstances this may be acceptable and appropriate. With that in mind we would prefer that it be in the first section under 'Relevant factors are likely to include...' not in the final paragraph
- The guidance also needs to capture that some technological solutions eg key pads or hardwired displays (depending on how they are designed), may not be appropriate for customers with particular needs eg visual impairment, dexterity problems etc
- Under the current circumstances, when a PPM cannot be fitted and the customer is not vulnerable, their supply will be disconnected. At present there are a number of ways that suppliers have addressed this problem, from paying the debt back through a different meter (eg a gas debt paid back via the electricity PPM, which is more conveniently located) to re-siting meters free of charge. Guidance should make it clear that these options should remain
- Any cost incurred with making the meter 'safe and practicable' should not be borne by the individual consumer where 'the supplier is aware or has reason to believe that the customer is having or will have difficulty paying all or part of the charges for their energy supply'. Protections should be updated so this includes not only moving the meter, but the installation of a key pad or hardwiring the display

Guidance around the identification of customer's circumstances:

- The guidance should include that suppliers should have regard to best practice on vulnerability checklists
- Consumer Focus supports the location of the meter being recorded when a new energy meter is installed or inspected, regardless of the personal circumstances or ability to pay of the customer. While we have been told that such a database already exists, it is reportedly not widely used or kept up to date. Guidance should stress the importance of updating and maintaining this information. The Energy Retail Association should be encouraged to devise a meaningful and consistent format for recording the meter location so that it might help inform (though not be solely relied upon) decisions around what is safe and practicable. This information should be stored centrally, and linked to the property not the customer, so that should the customer switch supplier or on change of occupancy this information could then be available to the new supplier, subject to appropriate data protection issues being addressed. We understand that this will also support industry's work around developing a cohesive approach to revenue protection
- We support suppliers proactively seeking to ensure that all eligible customers are offered the opportunity to be registered on the Priority Services Register. Consumer Focus and Ofgem's 2009/10 joint fast-track review of vulnerable disconnections found that suppliers' information about vulnerability was often out of date[8] – customers' circumstances changed and people moved homes. It should also be noted that this is not comprehensive and does not include children so suppliers should capture this information in other ways

[8] **http://bit.ly/g51kal**

- Supplies should also proactively seek to ensure that prepayment is still safe and practicable for the customer. Eg during any home visit, whether to install or check a meter, or to install energy efficiency measures
- We support the proposed guidance around reviewing all the notes on the customer's accounts, making multiple attempts to contact the customer by various means and at different times of day. Also, the need for management authorisation and checking whether there has been a change of occupancy to make sure customers are not put onto prepayment in error
- Where a discussion with the customer has not been possible or, following discussion there was still uncertainty about whether it would be safe and reasonably practicable for the customer to pay through prepayment, we support the proposal that the supplier should attempt to visit the customer at their premises, with visits attempted on different days and at various times of day. Guidance should specify that a home visit in itself should not be deemed sufficient to comply with this licence condition

Post installation of a prepayment meter:

- We recommend that the title of this section is rephrased as the installation of a separate meter will not be necessary where a fully compliant smart meter is installed. Ofgem's 'Key Principles of Ability to Pay' – should feature somewhere in the guidance. Appendix 3 does reference ability to pay on page 44 but we believe this should be stronger[9]. The findings of the 2010 Ofgem and Consumer Focus review of suppliers' approaches to debt management and prevention[10] highlighted concerns about incentives on staff (both field and telephone) that may encourage staff to place undue emphasis on securing agreement to amounts aimed at meeting debt recovery targets rather than achieving an appropriate outcome for the customer. The review also found that many suppliers offer cash incentives to staff for moving customers onto Direct Debit, which is not always an appropriate payment method
- We support monitoring whether the customer is topping up
- We strongly support that where the customer is not topping-up regularly or top-ups are very low that the supplier should make multiple attempts to contact the customer by various means and at various times of day to understand this. However the Spring Package states in paragraph 2.40 that 'we will be encouraging suppliers to continue monitoring persistent cases of self disconnection. We will call upon them to offer tailored help to these customers including emergency and friendly credit and considering whether these customers may quality for extra help with their fuel bills, such as social tariff or rebate'. We would urge Ofgem to reflect this approach in the guidance. Where a customer is identified as in financial difficulties, in addition to offering alternative payment options, such as Fuel Direct, Consumer Focus propose that suppliers also consider their eligibility for their own company's social and environmental programmes where available eg the supplier obligation, social tariffs etc and independent advice on other support available
- In Tasmania, for example, suppliers are required to contact customers who self-disconnect three or more times for at least 240 minutes on each occasion, in a three month period. They have to offer these customers advice on alternative payment options, provide advice on government assistance schemes, and

[9] Ofgem published a number of key principles that supplies need to take into account in considering a customer's ability to py when setting debt repayment amounts. The principles are published in Appendix 1 of Ofgem's Review of Supplier's approaches to debt management and prevention, available at the following link: **http://bit.ly/dVWk2z**
[10] **http://bit.ly/g51kal**

(where the customer has consented) make referrals to the scheme[11]. We support this kind of approach

- Ofgem should consider what additional information should be collected as part of the social monitoring statistics to facilitate this

Question 4: Do you agree with our view that the current notification periods for switching to prepayment meter are sufficient?

The Gas Act 1986 and the Electricity Act 1989 stipulate that customers must be given at least 28 days to pay their bill and then at least seven days notice before a supplier can forcibly install a PPM.

Consumer Focus believes that the existing arrangements are sufficient but only on the basis that suppliers continue to follow the appropriate debt path including early notification of the debt, remote switching, and multiple attempts to contact the customer – by letter, phone and home visits. Only when these avenues have been exhausted should seven day notification be given.

Moving to a situation whereby consumers are able to get their debt under control at a much earlier stage is to be welcomed but emphasis must be on following the appropriate protocols to ensure the customer is protected. In practice, we would not expect many suppliers to either disconnect or switch customers within 35 days given the challenges of meeting existing protections. This process can currently take up to 100 days, and can require the supplier to make several visits to the home at different times of day. This approach should be monitored closely and times reported in the social monitoring statistics.

Question 5: Do you agree with our proposal to require suppliers to give customers information on using prepayment ahead of switching them to prepayment?

Yes, however, we recommend a further amendment and guidance around information given to customers:

- The proposed Licence Condition 28.1 after ‘provide’, insert, ‘prior to and ***post*** the switching to prepayment’
- After paragraph (a) insert: ‘(aa) information, ***via at least two different media***, relating to the operation of the prepayment meter***,*** including, information about the process for, and methods by which, the Domestic Customer can pay in advance through the Prepayment Meter’

We particularly support this proposal as Consumer Focus’s PPM research revealed that customers felt there was a marked lack of formal instruction or information from energy suppliers about how to manage or operate PPMs[12]. Most participants, including those who had themselves requested that a meter be installed claimed not to have seen written instructions telling them how to use and operate their meter.

In some of the qualitative research customers explained having to figure out the operation and management on their own. There was also a particularly low understanding of debt repayment rates and different charges. The supplier must provide explicit guidance about how any debt will be recovered from the meter.

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[11] **www.economicregulator.tas.gov.uk**. Cited in Smart Pre-pay in Great Britain. March 2010. P.21 Sustainability First. Gill Owen and Judith Ward. This research was part-funded by Consumer Focus. **http://bit.ly/dzwEeM**

[12] *Cutting Back, Cutting Down, Cutting Off* – Self Disconnection Among Prepayment Meter Users **http://consumerfocus.org.uk/g/4lx** (PDF 877KB)

'They didn't actually explain to me how to use it either. I had to find out myself. All I knew was that £6 had to be on there on Tuesday at midnight'

Female, 25–34, Wales

The proposal is important as this problem is likely to be exacerbated in a smart world as a home visit will no longer be required to switch a customer to prepayment. At present, where the customer is present during the installation of a PPM, this allows for a face to face demonstration on how to use the prepayment functionality and an exchange of information about using prepayment effectively and debt repayment eg how to top-up, safely re-enable supply etc.

Requiring information 'post' switching to prepayment as well as before is particularly valuable because as noted in Question 3, a significant proportion of customer's inherit their PPMs. Also, when we asked PPM customers in our in-depth interviews what could be done to improve their experience, in addition to information and support about how to operate the meter, they also said, that they would like more contact with their suppliers. Some PPM users felt that once the meter was installed energy suppliers 'stopped listening' to them.

The inclusion of the IHD is important as many PPM users, even if they are not using an IHD to top up or re-enable supply, may use a display to more conveniently access key information which is on the meter. For example, the display may have a low credit warning or an indication that the display is in emergency credit mode. Both of these will be particularly useful, especially when the meter is not located within the property. This will be part of the customer experience of using prepayment and needs to be recognised in the SLCs.

Further work needed – guidance on information

Lack of information was a noticeable gap in PPM customer service identified in our research and there are additional challenges with the remote switch to prepay. We would therefore urge Ofgem to consider guidance in this area.

Consideration must be given to:

- What information should be provided to the customer ahead of switching and post switching
- By what means and how the information is provided eg hard copy, telephone call, face to face, via the IHD and how this is presented
- How much notification (notice period) should be given when the customer is being forced onto prepayment

Method of communication/information provided

We recommend that Ofgem issues guidance to energy suppliers to ensure that *all* consumers moving from credit to pre-pay receive where possible *both* a written and verbal communication from their supplier prior to the switch taking place. Also following switching a message should be sent via an IHD where available. Information provided should set out:

- Details of the change in payment method, in particular the date and time that they meter will be switched to prepay. This is especially important with remote functionality
- The advantages and disadvantages of prepayment (as per existing licence requirement)

- Confirmation of the reason for the switch to pre-pay eg customer request, debt repayment. Consideration should be given to whether the customer should required to provide written consent. This confirmation is to avoid confusion and enable redress where the customer feels they were told they had to switch
- Where applicable, their right to change their mind and switch to other payment methods without penalty. If the decision to switch follows contact with the supplier, written materials enables the customer and other household members to reflect on the decision. This is particularly useful in the case of unsolicited approaches. Anecdotal reports suggest that at least one supplier will be seeking to encourage high-debt risk customers onto prepay during the smart meter installation visit so this would provide a safeguard
- Their right to a pre-pay ready in-home display – free from direct cost – to improve customer convenience and help people more effectively manage their energy
- The name and details of the tariff that the consumer will be on, and any changes in terms or cost. Consumer Focus's qualitative research found that most consumers did not realise their supplier offered different tariffs and assumed they would be on the cheapest tariff for their payment method
- A contact telephone number for independent advice on energy efficiency and how to cut their energy bills. These telephone numbers should be free for all consumers, from both landlines and mobile phones
- How to operate the meter and where applicable the in-home display so that the customer can effectively use prepayment. This should include:
    - How to safely re-enable supply
    - Information about the process for, and methods by which, they can top-up, including closest top-up points.
    - Where available the amount and availability of emergency and friendly credit and how this works
    - A supplier telephone number for further information and advice

In the case of customers in financial difficulty this should also include:

- Agreement of any arrangements to manage the outstanding bill including the amount of debt outstanding, the rate of repayment and details of when the debt is deducted. There should also be information about how arrears are collected. Our in-depth interviews found that awareness of the outstanding amount and date by when the debt would be cleared was very low. Not one of the qualitative research participants recalled receiving correspondence to tell them how much of their debt they had repaid or when they were scheduled to clear it
- Information about the debt assignment protocol

Both written and hard copy communications are important to ensure that the information has been received and is understood. Consumer Focus PPM research found that some PPM customers believed that they had never received communications of any kind from their supplier.

Our recent billing research also found that PPM consumers were the most disengaged from their bills and annual statements and the least likely customer group to want more information in this format[13].

[13] This focus group research was conducted by Mori on behalf of Consumer Focus (October 2010) and will be published shortly.

Despite the low level of engagement with existing communications from suppliers, hard copy letters provide confirmation of receipt of information. Written information can also act as a reference for customers, carers or other household members not involved in the direct contact with the supplier. This should be in a simple, easy to understand format.

More work is needed by suppliers on customer engagement strategies. It is important that energy companies consider how they can improve their communications with this consumer group. This should include exploration of messages on top-up receipts, keys or equivalent, and postcards.

The smart meter installation visit

Given the existing information gap identified in our research, suppliers must use meter installation visits to explain to customers how to use their IHD and smart meter to maximise customer's prepayment experience. Ofgem should ensure that this is picked up as part of the smart meter supplier installation code of practice.

Question 6: Do you consider it necessary to explicitly require suppliers to provide the ability to top-up by cash where payment is made through a prepayment meter?

We support the proposed amendment to SLC 27.1(a). While the growth of online and phone top-up methods should hopefully bring benefits to online households and those with a bank account, there is a risk that it may result in a worsening of the service offered to households without bank accounts which remain reliant on cash top-up via local payment outlets. The availability of cash top-up options across the country should continue to be every two miles and must be closely monitored to ensure the service is maintained.

While requirements around safe and reasonably practicable should help prevent a customer going onto prepayment if they didn't have a bank account, it would not help to protect cash as top-up option. Many customers, even those with bank accounts, like to budget using cash. For example, they might withdraw a fixed amount each week, so they are confident that they are living within their means. It is important to safeguard this choice which gives customers financial control.

Question 7: Do you agree with the proposal to issue guidance on identifying vulnerability prior to disconnection and require suppliers to have regard to this guidance through a licence amendment? If not, what else is needed?

Yes, we fully support this proposal. The introduction of smart metering removes the need for a home visit in order to disconnect a customer. This currently acts as an important safeguard in the following way.

- It provides a final back stop opportunity for the supplier to identify vulnerability and discuss payment options
- The cost, resource and time involved in carrying out a site visit to disconnect, especially where a warrant and forced entry is required, deters suppliers from widespread disconnections
- Where a warrant is required for forced entry, the Court will often require that the supplier proves that numerous attempts have been made to contact the customer, that the customer is not vulnerable and that a PPM would be suitable for their needs

Despite the number of protections that are currently in place to protect vulnerable consumers from disconnection, evidence from the Consumer Focus Extra Help Unit demonstrates that vulnerable consumers continue to be disconnected[14]. A robust approach is therefore both required and warranted.

We welcome the proposal to update the guidance around 'all reasonable steps' the emphasis should be on the supplier obtaining sufficient evidence that the customer is not vulnerable before disconnection takes place. Experience proves that a home visit on its own will not ensure that vulnerable disconnections do not happen. The guidance must be worded in a way so as not to encourage a tick box mentality.

What else is needed?

A minimum definition for vulnerability should also be considered to ensure a consistent approach across suppliers. Throughout the Ofgem and Consumer Focus review of vulnerable consumer disconnection in 2009[15] we raised a number of concerns about the ERA Safety Net, the self-regulatory framework currently in place to protect vulnerable consumers from disconnection. Most notably, the issue of disparity in the way that energy suppliers define 'child' in a vulnerable household. This currently ranges from one supplier defining a child as under five years old and in a financially insecure household as vulnerable, to another supplier defining a child as under 18 years old, with or without financial insecurity as a contributing factor. While we are aware of the difficulties that the energy industry faces in agreeing a minimum definition, this disparity erodes the protections that the self-regulatory framework seeks to guarantee, and could potentially lead to damaging or dangerous consequences.

Furthermore, only the big six suppliers are currently members of the voluntary ERA Safety Net. The ten small suppliers currently operating in the domestic market therefore sit outside these limited self regulatory protections. This is unacceptable.

Consumer Focus continues to advocate for all children to be protected, not least to meet the requirements of international legal standards regarding the welfare of children. Ofgem should consider including this in its licence condition given the failure for this to be addressed voluntarily. It is our view that, as an absolute minimum, all families on means-tested or disability benefits with children under 16 years old (plus all families with children under 12), must fall within the safety net definition.

Question 8: Do you have any comments on our proposed guidance regarding identifying vulnerability prior to disconnection?

We broadly support the proposed guidance but make the following suggestions:

In 1.1

- We would welcome the guidance reflecting the commitment in the Spring Package, paragraph 2.49 that 'we will take a tough line on compliance and are likely to consider enforcement action to be a proportionate response in a single case.'

In 1.2

- Insert after 'proactively seeking to ensure that all eligible customers are offered the opportunity to be registered with the Priority Services Register,' 'This includes, for example, during home visits eg installation of meter or energy efficiency measures'
- It should be noted that when trying to establish vulnerability, the PSR cannot be solely relied upon – customers' circumstances change and people move homes. Indeed Consumer Focus and Ofgem's 2009/10 joint fast track review of

[15] **http://bit.ly/dP5Za2**

vulnerable disconnections found that suppliers' information about vulnerability was often out of date[16]

- Insert, that in all instances disconnections should be carried out by staff who have been trained to identify and support vulnerable customers
- Suppliers should obtain not just management authorisation as with prepayment, but senior management, as in a person of significant authority within the company, before disconnecting a customer. The seniority required should be greater than that needed to switch to prepay
- We welcome the reference to Consumer Focus's good practice vulnerability checklist but given our pending abolition it should perhaps be amended to 'for example using the good practice vulnerability checklist compiled by Consumer Focus or an equivalent body'

Guidance should include post disconnection:

In the confidential reports that Consumer Focus provided to each of the big six suppliers following the review of their vulnerable disconnection processes, we set out our concerns about the existing post-disconnection process, which vary greatly across suppliers. It is unacceptable that so many vulnerable consumers were seeking assistance from Consumer Focus following disconnection. Establishing a household's vulnerability and reconnecting vulnerable households to their energy supply must not be dependent upon the intervention of a third party.

During the course of the review Consumer Focus learnt that all suppliers leave contact details in the property following disconnection, and five suppliers then follow this up by attempting to make contact, while one supplier relies solely on the customer making contact to discuss reconnection. We recommend that the guidance include the following post disconnection action:

- Suppliers are required to attempt to make contact with customers, not least to ensure that a vulnerable customer has not been disconnected in error
- It is also important that staff in the teams that are responsible for reconnections are trained to identify vulnerability (and escalate the reconnection appropriately) and also empowered to consider waiving certain fees and charges. Consumer Focus recommended that all suppliers build flexibility into how they apply reconnection charges and how these are collected
- Once a consumer has been disconnected it is vital that all suppliers are required to leave an information pack at the property setting out clearly the reason for disconnection and how the consumer can get back on supply. Through the review of vulnerable disconnections, we found that the best supplier's system holds all disconnected accounts in a dedicated disconnected accounts router, ensuring they are given priority and easily identified. This is controlled by a dedicated team and is an example of industry best practice. Furthermore, some suppliers endeavour to contact the customer within 24 hours of disconnecting them. This we strongly support and should be included within the guidance

As set out in our response to question 7, it is important that ofgem consider how the small suppliers will address the issue of identifying vulnerability prior to and post disconnection as they are not currently members of the ERA and therefore not covered by the Safety Net.

[16] **http://bit.ly/g51kal**

Question 9: Do you agree that suppliers should ensure rapid reconnection and provide compensation on a voluntary basis where customers have been disconnected in error?

Yes. We are supportive of this proposal. Updated standards for reconnection are appropriate given that energy is an essential service which is needed for health and wellbeing. Given the remote capability of smart metering, 'connecting customers as soon possible and within 24 hours' would seem an appropriate target. Compensation, if set at the right level, should act as a strong deterrent against misuse or casual application of remote disconnection functionality. Compensation is also appropriate given the inconvenience and distress that disconnection can cause to the customer. Careful consideration will need to be given to compensation levels with amounts rising the longer a customer is off supply.

We also strongly support that if the energy companies do not implement this proposal on a voluntary basis that a mandatory approach is considered. Ofgem should set a timescale for this to happen which is no later than the implementation of the Spring Package. If suppliers fail to do this the regulator should include it within the standard licence conditions.

Consumer Focus believes that this proposal should also apply to customers switched to prepayment in error. There are occasionally cases of PPMs being incorrectly installed on the wrong account eg if the meters are in a communal hallway, crossed meters, etc. We are also aware that there are problems with poor quality metering data held on the central systems eg crossed meters, non-existent meters registered to addresses, details not updated after house or flat conversions and so on.

The smart meter roll-out will need to ensure that the metering databases are thoroughly cleansed and updated. Otherwise there could be an increase in cases where the wrong customer account is switched to pre-pay. At present, the installation of PPMs acts as an additional check to ensure the meters are going on the right account.

Where the customer is switched to prepayment in error, suppliers must commit to switching the customer back as soon as the technology and any necessary safety checks allow. Customers should also be offered a standard sum to compensate them for the inconvenience, which would also act as a financial incentive on suppliers to ensure they have robust controls in place. This is an important safeguard and we would welcome Ofgem's view on this. This could be provided as a credit on the customer's account after their account has been switched back to credit.

Question 10: Do you agree with our view that the current notification periods for disconnection are sufficient?

At present there are three main instances where a household will be disconnected: disconnection for debt, disconnection for meter tampering/revenue protection and de-energising an empty property. In all cases suppliers currently have a number of protocols that must be followed prior to a physical disconnection of the supply. At all stages the supplier has the opportunity to ascertain whether any member of the household is vulnerable and to discuss with them payment options and provide notification of disconnection. Furthermore, the ERA members are now audited against the Safety Net to ensure no vulnerable households have been disconnected. However, non ERA members are not audited.

Consumer Focus cautiously agrees that existing notification periods are sufficient but only where existing protocols continue to be followed. In particular that, suppliers must continue to follow the appropriate debt path including early notification of the debt, remote switching, and multiple attempts to contact the customer – by letter, phone and home visits. Only when these avenues have been exhausted should seven day notification of intention to disconnect a premise for unpaid charges be given. Ofgem should monitor this closely and this information should be collected as part of the social monitoring statistics.

Question 11: Do you agree with our proposal to explicitly set out in the supply licences that load limiting and credit limiting amount to disconnection in certain circumstances?

Load limiting

Consumer Focus strongly agree with the need to include protections around load limiting in the licence conditions. The minimum standards for smart metering support this and we are aware that at least a couple of suppliers are already considering tariff offerings which use this. This is a critical part of the foundation stage protections.

However, we firmly believe that this proposal does not go far enough to safeguard customers, especially the most vulnerable and that there is significant further work needed. In particular, we have concerns that it could result in the weakening of the winter moratorium as it allows for vulnerable customers to be load limited during the coldest months of the year.

We are especially concerned that this will be used inappropriately as a debt management tool by suppliers. At least one supplier is currently minded to offer customers in payment difficulty a load limiting tariff, which they say will help customers budget. But as Ofgem's FDS research highlighted, those struggling to pay were opposed to the proposition and had concerns over their ability to do activities such as cooking. We are anxious to ensure that customers are not pushed onto load limiting tariffs.

While we recognise Ofgem's desire to allow tariff innovation and customer choice, we have real concerns that some customers may sign up to these new deals unaware of the practical implications. In the case of vulnerable consumers, who need well heated homes and warm food, this could put their health and well-being in danger.

Establishing what is 'significantly constrained' is fraught with difficulties as what is considered an essential supply of energy will vary depending on household size, property type, heating type eg whether or not they use electricity for heating, appliance use and efficiency eg gas or electric heating, the climate in the area where they live, the health of household members and the energy efficiency of their home.

Customers must have the choice of whether they want a load limiting tariff – they should not be forced onto this, even for non-payment of debt. They should be able to move away from this type of tariff without facing penalties.

Below we have outlined an amendment to the proposed licence condition. We hope that Ofgem will seriously consider this or a variation of it for inclusion:

1. After 27.9A For the purposes of conditions 27.9, 27.10, 27.11 and 27.11A, Disconnection includes:

   Load limiting where:

   (i) The supply to the Domestic Premises is significantly constrained; or

   (ii) *The supply to the Domestic Premises is **constrained as the Domestic Customer has not paid Charges for the Supply of Electricity and the household contains someone of Pensionable Age living alone, disabled, chronically sick or has children under 18**; and*

(iii) *The Domestic Customer does not pay Charges for the Supply of Electricity by using a Prepayment Meter or, where the Domestic Customer pays using a Prepayment Meter, that meter remains for the time being in credit*

The Spring Package states that this 'may' be the first stage of Ofgem's work relating to load limiting and credit management – we urge the regulator to ensure that further action is taken. Consumer Focus is very concerned about the lack of clarity and agreement on what constitutes energy supply to a domestic premises being 'significantly constrained' – guidance is needed in this area. While we appreciate the challenge it is imperative that the regulator has a working definition in order to enforce this proposed licence condition amendment and protect customers. We cannot see how this licence condition can be effective without some way of agreeing and measuring whether a supply has been significantly constrained. We recommend that Ofgem work with industry and consumer groups to address this and agree a matrix of definitions taking various factors into account. This will require enhanced monitoring and self regulation.

Also, clarity is needed as to what happens if the customer tries to use more appliances than they have current to support them. As we understand it, the supply will effectively trip. The customer will then have to re-enable supply. If this re-enablement needs to be done at the meter, then safe and reasonably practicable conditions, regarding the location and accessibility of the meter, will need to apply and the SLCs and guidance will need to be updated accordingly.

Further protections are also needed around how consumers will be clearly informed about the implications of signing-up to this kind of deal – the advantages and disadvantages. Eg to ensure they understand that in the busy morning rush to get ready for work and school, not all appliances would be able to be on all the time. This will needed to be communicated to customers in a meaningful way eg not KwH but in appliances and verbally not just hidden in the contract. It should be noted that Consumer Focus research (March 2010) found that only 26 per cent of people have read in full their energy terms and conditions[17].

Also consideration needs to be given as to how customers will be warned that they are close to their load limit – via their display or the meter? Will this be an audible signal or a visual one? If the customer does not get the signal – who is responsible, the display manufacturer or the supplier? Where does the customer go to complain? Roles and responsibilities need to be clear before these tariffs are introduced.

We urge Ofgem to review these protections on a regular annual basis as the market evolves. The social monitoring statistics should also report on use of load limiting, especially as a debt management tool.

Lastly, smart meters allow suppliers to set a cap on the amount of energy that can be used during any one time period eg the customer is allowed only to use a certain amount of electricity or gas in a day, before their flow is disconnected or they are load limited. We seek reassurances from Ofgem, that this action would amount to Disconnection under the current definition of the SLCs.

[17] This stretches from 20 per cent for 18-24s to 35 per cent of 55-64s. Those in social groups DE said they were most likely to read the Terms and Conditions; 30 per cent versus C1 23 per cent and AB 25 per cent.

Credit management

We support the proposals from this area, but would welcome further clarification from Ofgem as to their understanding as to what Credit Management offers are likely to look like for customers.

From our discussions with industry and European consumer groups, we understand that the most likely consumer proposition will be suppliers will offer a credit limit to certain types of customers. Eg the customer will be allowed up to a pre agreed limit's worth of energy such as £100 worth of energy before they have to pay. If they go over this amount they will either be disconnected, load limited, switched to prepayment, charged a higher unit rate for their energy, or charged a one off or accumulating charge, as is done with overdrafts in the banking sector. They will not necessarily have to pay that amount off in full in order to continue on their standard terms, though that could potentially be a possibility. We understand that suppliers will be principally using this as a debt management tool but they may also develop related loyalty products. It is likely that the limit will be set according to the customer's credit rating. We expect that the facility will be targeted at those on standard credit in particular given the cash flow benefits. We see this as something that is offered to credit customers – those paying by Direct Debit and standard credit. It is a limit that is agreed in advance as part of the supply contract. It is separate from emergency or friendly credit for PPM customers, and it is important to make the distinction.

Ofgem need to be content that the definition and Principal Terms captures the implications of this. We also seek clarity as to whether the regulator sees this as a payment method or tariff choice.

There may also be a situation where the customer needs to top up their credit, in which case, safe and reasonably practicable protections may need to apply.

As with load limiting, further work is also needed around how consumers will be clearly informed about the implications of signing-up to this kind of deal – the advantages and disadvantages and the impact when customers reach their limit. Also, Ofgem needs to consider what are fair and acceptable terms for the supplier to offer once a customer has reached their agreed credit limit.

We understand that suppliers have been requested to notify Ofgem ahead of using load limiting. We hope that this will also extend to credit limiting tariffs too and as with load limiting usage is reported in the social monitoring statistics.

Question 12: Are there any protections that should be considered regarding disconnection and prepayment for non-domestic customers? If so, what are these? Please provide evidence to support your views.

We welcome the decision that suppliers adopt the same processes for micro-businesses around rapid reconnection and compensation that are outlined for domestic consumers. Consideration will need to be given as to whether compensation levels should reflect any financial loss as well as inconvenience to the company where they have been disconnected in error.

The current licence conditions and obligations placed on non domestic suppliers in relation to disconnection are fairly minimal compared to the protections in place for domestic consumers. Consumer Focus's Extra Help Unit has seen an increase in non-domestic disconnections and often suppliers do not comply with the spirit of the obligations. This is growing concern.

Consumer Focus is currently carrying out in-depth interview with small businesses that have been disconnected. The interviews consider the disconnection experience and consumer journey along the debt path – including the type and frequency of communication from the supplier and ability to agree affordable debt repayment plans. We have also analysed a sample of non domestic EHU and Consumer Direct cases and are writing to business suppliers about our concerns and requesting more information about their processes. This will help to further inform our approach in this area.

On Friday 8th April 2011 we held a micro-business roundtable for suppliers, regulators and business groups. Smart meters were one of the key areas of concern, particularly around disconnection. Micro-businesses reported instances of 'surprise disconnections' where they had been given very little notice or no said they had had no communication from suppliers before it happened.

We are yet to be convinced that suppliers are taking the roll-out to businesses as seriously as for domestic consumers in terms of protection. We would be keen for industry to explain how they are planning to deal with a likely high level of back-billing cases which could result in debt and disconnection rates increasing. Participants had concerns about Government's 'wait and see' and 'casual' approach.

We acknowledge that remote disconnection of the 16 percent of the businesses not currently occupied[18] is a cost saving that could be then passed onto consumers. However, we believe that any other disconnections of micro-businesses should be handled in the same way as for domestic consumers. With the requirement to obtain a warrant of entry removed so too is the customers' ability to state their case to avoid disconnection, for example when the account is under dispute. We have concerns that suppliers may use remote disconnection to effectively force customers to make payment for disputed bills, as we have seen occurring in the telecoms market. Current protections around disconnections when accounts are under dispute need to be maintained.

We welcome the decision to increase monitoring in this area, in particular around levels of disconnection, use and impact of prepayment to identify if there are significant changes in usage. Ofgem should also consider qualitative work and we will be happy to share the findings of our investigation when it is complete.

Emergency and friendly credit

We welcome the decision to continue to monitor whether suppliers offer emergency and friendly credit. It is important that these options are available to prepayment customers and if suppliers do not do this on a voluntary basis, a mandatory approach should be considered.

Friendly credit ensures that customers are not disconnected during predefined times or on given dates, regardless of how much energy they use, even if there is no credit on the meter[19]. No disconnect periods for friendly credit usually cover evenings, weekends and public holidays. Emergency credit differs in that it provides a buffer of a limited amount of credit at any time of day or night to help tide the customer over until they can top-up.

Consumer Focus supports suppliers being required to provide emergency credit to PPM customers for the following reasons:

- A well used and important service

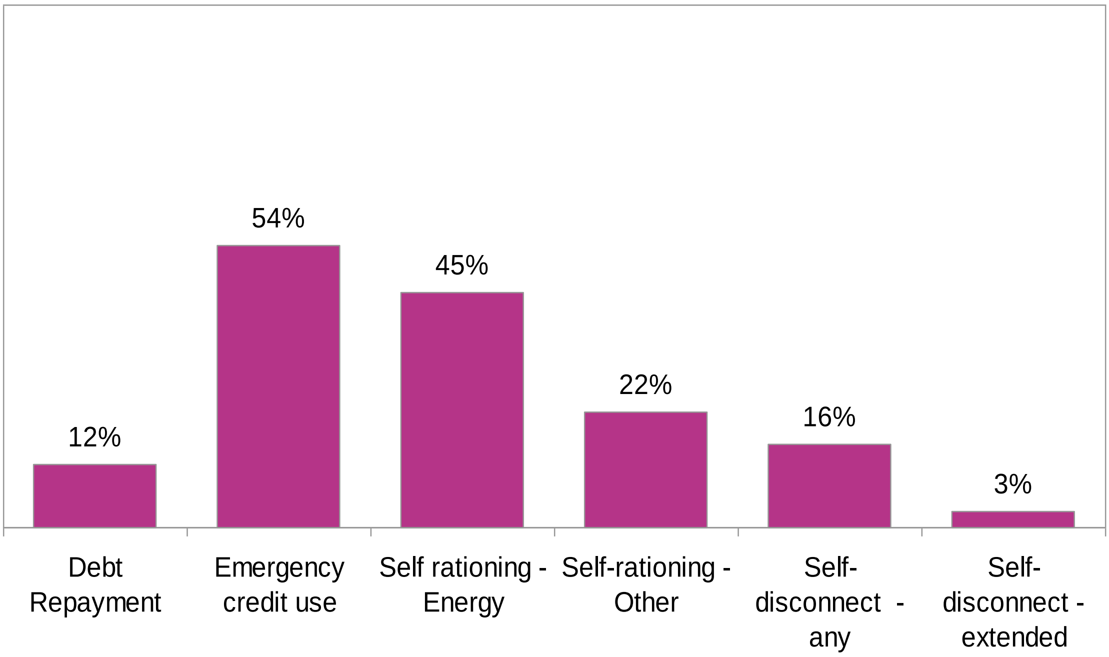
  Our recent research found that emergency credit was used by 54 per cent of PPM customers. This was usually as a buffer zone, to bridge the gap between credit running out and having money available. For others, the warning beep or

[18] Supplier figure

[19] In order to initially access to friendly credit during the no disconnect periods, the customer must have some credit on his meter. However, if this credit then runs out during the no-disconnect period, the customer will remain on supply until the end of the period.

the need to activate the emergency credit was a trigger to top-up. It was also used when consumers didn't have time to go to the shop and by those consumers who were simply disorganised or forgetful.

Incidence of key types of behaviour among GB households



Base: All respondents with PPM (718)

- Helps protect customers in financial difficulties

  Our research suggested that emergency credit was a particularly important safeguard for those on low incomes. We also found that consumers receiving benefits and those who had a PPM installed to collect debt repayments were more likely to have used the emergency credit facility than others in the wider population of PPM users

- Important protection for vulnerable consumers

  Use of the emergency credit facility was also higher where one or more household residents had a chronic health condition (65 per cent) and where children were present in the home (62 per cent). Given this overwhelming evidence that vulnerable consumers are more likely to use emergency credit, it is important that this facility is retained in a smart world, particularly if it is easier to switch from credit to pre-pay and more consumers are expected to do so

Recommendations

- Consumer Focus recommends that all suppliers provide emergency credit for both gas and electricity when the customer is in pre-pay mode. A minimum level should be set, taking into account the average amount of credit needed to provide a supply for a reasonable time in the customers particular circumstances eg climate, degree of remoteness – in parts of Northern Scotland emergency credit can reportedly be £20 compared to the £5 average
- A minimum amount of emergency credit should be provided on the meter when a customer switches to pre-pay mode

Friendly credit

Friendly credit is needed when emergency credit has been used up. Consumer Focus understands that all suppliers extend friendly credit to electricity prepayment customers where technically possible. But there are currently functional constraints on the ability of suppliers to offer friendly credit on all electricity meters and this function is not available for gas.

As we understand it, smart meters, with the appropriate functionality, could enable the provision of friendly credit and emergency credit for both gas and electricity customers. All suppliers should offer this service, would ensure that this essential service was offered to all customers and maintained in a smart world.

Consumer Focus recognises that there is some need for regional variations in friendly credit periods. For example in certain parts of the country there are far fewer options for topping up after normal working hours, also there are different public holidays across Great Britain.

Recommendations

We therefore recommend that high level minimum standards are set that cover:

- Bank holidays in that customer's region
- Times of day/night – as a minimum 6pm-8am

Commercial interoperability

Consumer Focus welcomes recognition from Ofgem of the need to take action to ensure interoperability. If consumers have to change their smart metering system – whether their meter, communications or in-home display, when they switch supplier, this could result in detriment. Issues include: increased customer inconvenience; higher costs[20] to the consumer; loss of income if people have to take time off work for an installation visit[21]; increased environmental waste; and barriers to switching and competition.

As we understand it, full technical interoperability is not likely to be achieved until 2014 when the data and communications body (DCC) is operational. We are somewhat dismayed therefore that after many years of debate about this, we find ourselves in a position where at least three million meters are expected to be installed, before a customer with a smart meter can switch supplier and retain their smart functionality. That said we appreciate the complexity involved in this.

The Government is encouraging early mover activity. Where appropriate regulation is in place, Consumer Focus recognises that suppliers installing smart meters early may have the advantage of bringing the benefits of smart metering to customers more quickly. For example, householders should be able to benefit from accurate bills and near real-time energy information. Our research shows that, once the benefits are explained, 49 per cent of consumers were interested in getting a smart meter with a display. This approach also allows for essential piloting of new technology to take place at scale[22].

It is important however that consumers who receive their meters during the foundation phase are not locked-in to uncompetitive deals or poor customer service, and remain free to change supplier. Also, that they are appropriately protected. This is particularly the case as the vast majority of smart meters that will be installed are not likely to be driven by ‘customer pull’ for more innovative products, but will be part of the current 2.5 million meters replaced through ongoing activities or supplier localised roll-out programmes[23].

It is also important that the service received by customers who receive their smart meters in the foundation stage is of high quality, not only to safeguard the individual customer but also because the experiences of those who get their smart meters early will have a critical impact on customer perceptions of smart metering and consumer engagement.

In the short-term, given the circumstances, we appreciate that there are restricted options open to the regulator. We think it is the right principle that where a smart meter is installed a customer can at least revert to using their smart meter in dumb mode on change of supplier. The customer may lose their smart functionality if they switch away

[20] This could be as result of the customer having to pay for new compatible equipment, the cost of stranded assets passed on via bills, or lack of competitive pressure on pricing for example.
[21] According the UK Cost of Waiting Survey, waiting in for the meter man results in loss of earnings, disproportionately impacting those on low incomes who are paid by the hour; results in days taken off sick – a cost to the economy, and inconvenience and annoyance for customers[21]
[22] Consumer views on smart metering (January 2011). TNS Research International on behalf of Consumer Focus. A sample size of 2,049 adults were surveyed in face to face interviews across Great Britain. It comprised of a representative sample across all social and income groups. Interviewees were restricted to those over 18 who were wholly or partly responsible for paying energy bills at that address.
[23] Smart Metering Implementation Programme: Roll-out Strategy. Para 2.3. p.8 eg new builds, electricity re-certifications and gas meter replacements, switching between credit and prepayment meters and repairing meter faults

from the energy company that installed the smart meter, but they at least have the choice to switch, having weighed up the pros and cons of the non-smart offers available. We are not best placed however, to comment on the practicalities of the proposal to achieve this.

As we understand it, this proposal does not address the problems of customers who want to switch between smart offers. Further work is needed around this to see if this can be facilitated before the DCC is available in 2014.

Ofgem should also consider obliging suppliers to explain the advantages and disadvantages of moving to a smart deal in this early phase, including what happens if the customer wants to switch. This should include if they are likely to need a number of additional visits eg to retrofit functionality if the meter is not already fully compliant.

As regards to the approach toward PPM customers, we have some reservations about the proposals. These are outlined in question 17 below.

Lastly, we are also disappointed with the lack of focus given to small supplier interoperability and protections more generally. Many micro-businesses, such as the corner shop, the local publican or high street hairdresser face many of the same challenges as domestic customers. This needs to be recognised.

Question 13: Do you agree that there should be an obligation on the original supplier to offer terms for use of the meter?

Consumer Focus is not best placed to comment on the likely effectiveness of this approach or the implications for data flows. We have received contradictory views on the possible responses from suppliers and think industry is best placed to know how they will respond.

Question 14: Do you have any comments on the requirements for terms to be reasonable and non-discriminatory and factors we would propose to take into account?

This seems like a fair approach and we support guidance to provide clarity. It seems reasonable that suppliers who decide to install smart meters early do so at their own risk and should not initially expect to cover more than the costs for a dumb meter. We understand this to be the approach that at least one supplier is already taking.

Question 15: Do you agree with the proposed obligation that terms should be transparent?

Yes. This is good practice – terms should be easily available, including associated liabilities or warranties. At the moment when a supplier acquires a new customer they do not know what charges they will face. It is also appropriate that charges should be reasonable in all circumstances. This should help address some of the concerns about potentially unjustified termination charges, which the incoming supplier could face, which were raised in the Review of Metering Arrangements (ROMA).

Question 16: Do you have any views on the appropriateness of an obligation to offer terms of use of communication services as part of the Spring Package and the timeframe for any such obligation?

We welcome this issue being considered. In order for the customer to be able to benefit from the full functionality of the smart meter, the incoming supplier has to be able to utilise not only the meter but also the communication link from the meter. As we understand it, until technical specifications are agreed the incoming supplier is unlikely to be able to use the meter in smart mode. This is because they will have to build their own back office systems to interface with the new data flows. We seek clarity as to whether this will be resolved once the technical specification is decided and what is the likely timescale for achieving that.

Question 17: Do you have any comments on our proposed approach for dealing with prepayment?

We appreciate what this proposal is trying to achieve. As noted, without a communications solution in place smart meters cannot readily operate in dumb prepayment mode on change of supplier. We share Ofgem's concerns that this could mean that customers are effectively locked into a particular supplier unless they move to a different payment method or have another meter change.

We recognise that putting an obligation on the supplier installing the smart meter in prepayment mode ensures that they do not deliberately lock-in consumers. However, we have concerns that the challenge and cost involved in putting arrangements in place to enable the incoming supplier to use the meter in prepayment mode, may result in suppliers deciding not to use smart for prepayment customers until the data and communications body is available.

On the one hand, if this happened, it would protect many PPM customers from being locked into a particular supplier. On the other, it would also mean that PPM users become one of the last groups to access the benefits of smart metering despite paying for roll-out from day one.

If suppliers adopt such an approach it could also discourage smart prepay being trialled at scale. This is an especial consideration as we are aware that there are particular technical challenges involved with this payment method. While there is now a SMDG working group focussing on prepayment, in many of the Ofgem/DECC technical working groups to date, there has been a tendency to put PPM concerns to one side as they are either considered too difficult to handle or a minority concern. Some suppliers have been slow to trial smart prepayment. Given this and the historical lack of competition and innovation in this market, we are reticent to discourage movement.

DECC's impact assessment suggests that PPM customers are likely to achieve some modest energy savings – on average 0.5 percent for gas prepayment and 2.8 percent for electricity[24]. Consumer Focus PPM research suggests that PPM customers potentially have the most to gain in terms of improvements in customer service from smart metering and in the long run improvements in competition and a downward pressure on price. For example:

- New and more convenient ways of paying, such as top-up and payment by text message, phone or internet means customers can avoid having to make trips to prepayment outlets. This could remove the hassle of going out at night or in the winter to get the power back on
- More accessible information on energy consumption via in-home displays and easier access to key data. For example, at the moment we understand that, on Quantum PPM meters, the consumer has to press a button over 30 times to access account information. In our recent qualitative research into attitudes toward prepayment[25], none of those interviewed were aware that this

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[24] *Smart Meter Roll-out in the Domestic Sector GB. DECC Impact Assessment* 30/2/2011 **http://www.decc.gov.uk/assets/decc/Consultations/smart-meter-imp-prospectus/1485-impact-assessment-smart-metering-implementation-p.pdf**. Page 30

[25] *Cutting back, cutting down, cutting off, Self-disconnection among prepayment meter users.* Consumer Focus, July 2010, **http://consumerfocus.org.uk/g/4lx**. Page 12. This is the biggest ever study of PPM energy customers. The study explored attitudes to this payment method, and the extent to which PPM customers self-ration or self-disconnect.

information was available on their meter. These kinds of usability issues can be addressed

- Removal of the dependency on tokens or cards to load payment onto meters – British Gas reports that in 2010 more than 300,000 replacement cards/keys were issued that result in cost and inconvenience to customers
- Low credit warnings could be provided via the display – at present where a meter is located outside of the property eg in a basement, low credit warnings cannot be heard and it can be particularly difficult for customers to keep track of their energy use. This means they can unwittingly self-disconnect
- Using the installation visit to plug the prepayment information gap that customers tell us exists– helping all customers understand how to more effectively use their energy meter and manage their energy use to budget more easily

We weigh these potential benefits up against the fact that while more PPM customers are switching, that the Ofgem Probe into the Energy Retail Market found that around 45 percent of those who did switch did not receive a price reduction[26]. Also, that overall, The Retail Market Review (March 2011) found that 40-60 percent of customers are 'sticky' (cannot switch or choose not to) and that vulnerable consumers are disproportionately represented in that group[27].

Our analysis of the big six's PPM tariffs showed that in some regions (Southern and Swalec) the difference between the cheapest and most expensive dual fuel deal available is just £38.[28] Though this compares to Northern, where the greatest cost saving achievable for an nPower customer was £92.

The principal risks incurred from lack of interoperable smart prepayment are that the customer is effectively locked into an uncompetitive deal or poor customer service.

One solution to address this may be that suppliers are allowed to roll out smart prepay where they can offer the customer some kind of price guarantee and assurance of an improved level of service eg their tariff will never be more than the cheapest available PPM tariff in the market, and they will be offered the additional smart benefits such as remote top-up options and a prepay-ready in home display. If the customer was dissatisfied they would also still have the option to switch supplier, but would have to have their meter changed at no cost. We feel that such an approach would strike the right balance between ensuring both early movers and consumers benefit.

Under the current proposal, we are also concerned that in order to discharge their obligation, suppliers would have to make an investment in new functionality, with no guarantee that this would have an enduring use once DCC is operational. This current proposal also puts no obligation on the incoming supplier to offer PPM services or to accept the steps that have been taken to enable use of the meter.

Given the unequal smart-readiness of suppliers we would expect a degree of gamesmanship, with some suppliers seeking to prevent early movers from getting too much of a head start wherever they can. No doubt some will be unwilling to support any kind of interoperability arrangements prior to the DCC being in place. We would imagine that some would also still exchange the meter for simplicity in terms of managing the customer account, resulting in both inconvenience for the customer and increased costs from stranded assets. The interim DCC arrangement was dismissed as it was not

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[26] *Energy Supply Probe Initial Findings Report.* October 2008 **http://bit.ly/fI6DuH** (PDF 3.98MB)
[27] *The Retail Market Review – Initial Findings and Proposals March 2011* **http://bit.ly/fI6DuH** (PDF 3.98MB)
[28] Prices as of 12th April 2011. Prices are based on a 'medium user' using 16,500kWh of gas per annum, and 3,300kWh of electricity per annum.

deemed to be cost effective. We have some concerns about the cost implications of this interim solution and where these costs will fall.

In theory, it is hard to imagine that suppliers would wish to reject a customer. However, where a customer has a poor credit rating, or is struggling to pay, as some PPM customers are, there is arguably less commercial incentive for them to facilitate the switch. Competition in the PPM market has been notoriously poor, in part for this reason.

Given suppliers have an obligation (under SLC27) to offer prepayment on request where a customer is struggling to pay, and the popularity of this payment method noted in the introduction to this response, we agree that it would not be appropriate to prevent a smart meter customer from using prepay. If this approach is adopted we support monitoring of the way in which smart prepay is being used as part of the regular oversight of debt and disconnection practices. We urge Ofgem however to investigate alternative approaches before a final decision is made.

Question 18: Do you believe that there should be a de minimis threshold before commercial interoperability obligations apply and if so, at what level should it be set?

Yes some kind of deployment cap seems sensible. As mentioned, we are keen that suppliers have the flexibility to trial smart prepay offers at reasonable scale during the foundation stage. This is not only to ensure that PPM customers are not left behind during roll-out but also that steps might be taken as soon as possible to remove barriers to competition and innovation in this market.

Consumer Focus response to the Spring Package – Addressing Consumer Protection Issues

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