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Industry participants, customers  
and other interested parties

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Date: 03 December 2013

Dear Colleague,

### **Preventing Erroneous Transfers**

We intend to modify Standard Licence Condition (SLC) 14A<sup>1</sup> of the gas and electricity supply licences. We propose that suppliers must take all reasonable steps to ensure that they do not take over the supply of a customer against their wishes.

Appendix 1 sets out our draft licence amendments.

We invite views on these proposals. Please send responses to [smartermarkets@ofgem.gov.uk](mailto:smartermarkets@ofgem.gov.uk) by 31 January 2014.

### **Why are we proposing this change?**

Erroneous transfers (ETs), where a customer has their supplier switched without their consent, can cause confusion and distress, and damage customers' perception of the market. ETs could have a greater impact for customers with smart meters if those meters unexpectedly start or stop behaving as prepayment meters or are remotely disconnected or reconfigured. Resolving ETs and returning the customer to their previous supplier is also costly for both the supplier that made the ET and the supplier from which the customer was incorrectly switched.<sup>2</sup>

The evidence we have indicates that over 1% of all successful switches are ETs. This level is high, and most could be avoided. We believe the current obligations on suppliers are insufficient and should be strengthened.

This proposal is part of our wider set of reforms to improve the switching process. Reliable switching enables customers to engage in the retail energy market. This engagement supports competition and benefits consumers.

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<sup>1</sup> Find links to the latest versions of the gas and electricity supply licence conditions on our website: <https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions>

<sup>2</sup> Suppliers have arrangements to rectify ETs once they have occurred. These are set out in the Erroneous Transfer Customer Charter (ETCC). Supporting documents can be found in the Master Registration Agreement (MRA Agreed Procedure 10: <http://mrasco.com/admin/documents/MAP10%20v2.8.pdf>) and Supply Point Administration Agreement (SPAA Schedule 10: <http://www.spaa.co.uk/documents/spaa/current-version>). These require the supplier notified by the customer (new or old) to initiate the customer's return to their original supplier using the normal change of supplier processes. The ETCC specifies the timescales in which this should be done and the steps that ensure the consumer is not charged twice for energy consumed.

## Detail of the proposed changes

We propose a requirement for a new supplier to take all reasonable steps to ensure it has a valid contract with the customer when the transfer request is made.

In defining a valid contract in this context we have sought to capture that the customer should not have been mis-sold to, that the supplier should have actioned any relevant cancellation provided to it by the customer and that the supplier should have correctly selected the details for the site that the customer has asked it to supply. These are the main reasons for ETs that are within a supplier's control.

We recognise that ETs can happen despite the supplier acting in good faith, so our proposal is not intended to apply where:

- There is an ET because the consumer provided wrong information.
- The customer cancels the contract in accordance with any relevant legislation or contract terms after the supplier submits a request to the central registration services to take over responsibility for the customer. We would expect any request to transfer during a cooling-off period to be made with the express permission of the customer. We note that what happens to a customer in this instance is the subject of a consultation by the Department for Business, Innovation and Skills (BIS) as part of its transposition of the Consumer Rights Directive (2011/83/EC).<sup>3</sup>

The Customer Objective and Standards of Conduct in SLC 25C<sup>4</sup> require suppliers to treat domestic customers fairly. We have reviewed whether this condition is sufficient to protect consumers' interests against ETs. Given the potential impact of ETs on customers, the high level of cases and the increased potential harm for customers with smart meters, we consider that it is appropriate to add a specific requirement to address this issue. We note that the Customer Objective in SLC 25C has effect where a supplier takes actions that significantly favour it, to the detriment of a domestic customer. We consider that, in some instances, an ET may not be in the interests of the customer or the supplier, and the application of this condition to ETs may be challenged.

Similar provisions are contained in SLC 7B<sup>5</sup> in relation to micro-business customers. They are likely to encounter similar issues with the application of these requirements to ETs to those described above. In addition, SLC 7B does not apply to all non-domestic customers. We therefore consider that this change to the regulatory framework is necessary to prevent ETs in both the domestic and non-domestic markets. It will allow us to take direct enforcement action where appropriate.

We have reviewed the interaction with Clause 15.1 of the Master Registration Agreement (MRA). This clause allows suppliers to make a transfer request if they have a contract with the customer. We consider that our proposed licence condition is a distinct obligation which places a separate requirement on suppliers, namely to make sure the contract is valid at the time of the transfer request.

We will continue to monitor supplier performance to ensure that customers who have been erroneously transferred are treated in accordance with the Erroneous Transfer Customer Charter (ETCC). We will also monitor Customer Service Returners (CSRs) to make sure suppliers are not misclassifying ETs.

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<sup>3</sup> The Consumer Rights Directive provides a customer with 14 days to cancel after they have entered into a contract. The customer can expressly agree to a transfer taking place during the 14 day cooling off period but would still retain its right to cancel during the cooling off period. We understand that BIS will transpose the requirements into UK law during 2014.

<sup>4</sup> SLC 25C: Customer Objective and Standards of Conduct.

<sup>5</sup> Condition 7B: Customer Objective and Standards of Conduct for non-domestic supply activities.

## Analysis of Erroneous Transfers

Large suppliers have provided information on instances of ETs. Our analysis of the data between January 2010 and August 2013 indicates that, for domestic gas customers, ET rates have remained steady at just over 1% of successful transfers. ETs for Non Half-Hourly<sup>6</sup> (NHH) electricity customers have been higher at around 1.5% to March 2012 and 1.2% after.

For the domestic gas and NHH electricity consumers in 2013, approximately 70% of ETs happened because the wrong metering point was selected and 15% because the supplier did not process the customer's cancellation request in time. The remainder were linked to the way in which contracts were sold to consumers.

Change of Supplier Expert Group (COSEG) analysis of ETs caused by the wrong metering point being selected, based on data provided by the Big Six suppliers, indicated three main root causes. Of the 39 cases analysed, 16 were suppliers picking the wrong customer to transfer and 14 were due to poor industry data. The remaining 9 were caused by the customer or its broker providing the wrong information, for example where the customer provided incorrect data when signing up through a price comparison website.

Performance varies between suppliers. Between September 2012 and August 2013, the ET rates of the six largest suppliers in the domestic gas market ranged from 0.6% to 1.8%. In the NHH electricity market they were between 0.7% and 2.5%.

The reasons for ETs, coupled with the fact that some suppliers perform better than others, lead us to conclude that industry ET rates can be improved.

In the domestic gas market and electricity NHH markets, the CSR<sup>7</sup> rates were typically around 0.4% of successful transfers. Supplier performance also varies from less than 0.1% to 1.6%. Some suppliers have suggested that there may be differences in the approach used to classifying ETs and CSRs. However, we note that some suppliers report high levels of both ETs and CSRs.

Further detail on supplier performance is set out appendix 2. We have also requested that suppliers provide us with information on the rate of ETs that take place in the non-domestic market. Where possible, we will summarise this data when we publish our conclusions on this consultation next year.

## The Change of Supplier project

Change of supplier is one of four priority areas for Ofgem's Smarter Markets programme<sup>8</sup>. Our ambition is for a fast, reliable and cost-effective process that facilitates competition and builds consumer confidence. During 2013, we discussed changes to the switching process with the industry, government and consumer groups at COSEG<sup>9</sup>. Our initial findings are that improvements can be made to the industry systems and processes that support switching. We will consult on proposals to radically improve switching for consumers in Q1 2014.

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<sup>6</sup> NHH customers are domestic and all but the largest non-domestic users.

<sup>7</sup> A CSR occurs where a customer indicates that they want to return to their previous supplier but there has not been an ET. The old and the new supplier agree to transfer the customer back to their previous supplier using the same process as for customers that are ET'd. This means the customer will not be required to pay any charges to the new supplier and will have continuous billing from their old supplier.

<sup>8</sup> We established the Smarter Markets Programme to consider the reforms needed to improve retail energy markets for consumers, in the context of the roll out of smart metering. The Change of Supplier project is one of the initiatives that have been developed under this programme. See our website for more information:

<https://www.ofgem.gov.uk/gas/retail-market/market-review-and-reform/smarter-markets-programme>

<sup>9</sup> <https://www.ofgem.gov.uk/electricity/retail-market/market-review-and-reform/smarter-markets-programme/change-supplier>

COSEG identified increased supplier regulation as a change that can be made in the short term to reduce the number of ETs. We are making this change now, together with additional reforms, to secure a reliable three-week switch for consumers while other reforms are under way.

As an additional measure, we are also considering the potential to require a supplier to pay compensation to a customer that has experienced an ET. One possible mechanism that could be used to introduce a compensation requirement is the supplier Guaranteed Standards of Performance. We will consider this as part of our wider review of the supplier Guaranteed Standards of Performance<sup>10</sup> alongside investigating other routes for providing compensation.

At COSEG we reviewed the opportunity to use smart meter technology to help ensure that the supplier is transferring the correct site. This may be particularly helpful where there is a lack of certainty about the customer's correct address and meter point details. We would expect the industry to develop and agree best practice in how, for those customers that wish to use them, messages could be sent to a customer's In Home Display or other Consumer Access Device to provide assurances that they have the correct details to start the transfer.

### **Impact assessment**

Our proposals seek to strengthen the regulatory framework that governs the switching process and are designed to improve industry performance in preventing ETs. We do not think our proposed amendments to SLC 14A alter what should be common practice for suppliers. We therefore do not think a new impact assessment is required.

### **Next steps**

Subject to responses, we intend to issue our conclusions in Q1 2014. They will be accompanied by a statutory consultation seeking to modify the licence condition to have effect from summer 2014.

We would like to hear views on any of the issues set out in this letter. In particular, we would like to hear from energy suppliers, consumer representatives and industry parties who have an interest in the switching process. We would especially welcome responses to the following questions:

**Question 1:** Do you agree with our proposed changes to SLC 14A?

**Question 2:** Do you agree with the proposed implementation timetable?

Responses should be sent to [smartermarkets@ofgem.gov.uk](mailto:smartermarkets@ofgem.gov.uk) by 31 January 2014. Alternatively they can be sent by post to:

Andrew Wallace  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Unless marked confidential, all responses will be published in our library and on our website, [www.ofgem.gov.uk](http://www.ofgem.gov.uk). You may ask for your response to be kept confidential. We will 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.

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<sup>10</sup> We published a Call for Evidence on the supplier Guaranteed and Overall Standards of Performance earlier this year. We intend to launch a consultation setting out the next phase of the project in the coming months.

If you want your response to be confidential, mark the document to that effect and include your reasons for confidentiality. Please put any confidential material in an appendix.

If you have any questions about this consultation letter, please contact Andrew Wallace (020 7901 7067, [andrew.wallace@ofgem.gov.uk](mailto:andrew.wallace@ofgem.gov.uk)).

Yours faithfully

**Maxine Frerk**  
**Partner, Retail Markets and Research**

## Appendix 1: Draft modified standard Licence Condition 14A: Customer transfer

We propose to modify SLC 14A of the gas and electricity supply licences to add the text below.

### Obligation to prevent Erroneous Transfers

14A.[x] If the Licensee applies under the [Network Code/Master Registration Agreement] to supply [gas/electricity] at a premises specified by a Customer (the "Transfer Request"), the Licensee must take all reasonable steps to ensure that it has a Valid Contract with that Customer for that Transfer Request at the point it is made.

### Definitions for condition

14A.[x] For the purposes of this condition:

A "**Valid Contract**" is one:

- (a) that has been entered into by the Customer;
- (b) that relates to the premises for which the Transfer Request has been made; and
- (c) for which notice of cancellation of that contract:
  - i) is not provided in accordance with any relevant contractual or statutory requirement, and
  - ii) is not received prior to the Transfer Request being made.

## Appendix 2 – Industry data on Erroneous Transfers

The following charts present information provided to Ofgem by the Big Six suppliers. The information relates to domestic gas customers and NHH electricity customers. Ofgem has undertaken limited validation on the data submitted so any information should be considered within this context.

Figures 1a and 1b show the reasons given by suppliers for ETs and the proportion of total ETs caused by each reason.

**Figure 1a: Erroneous transfer reasons - Domestic gas**



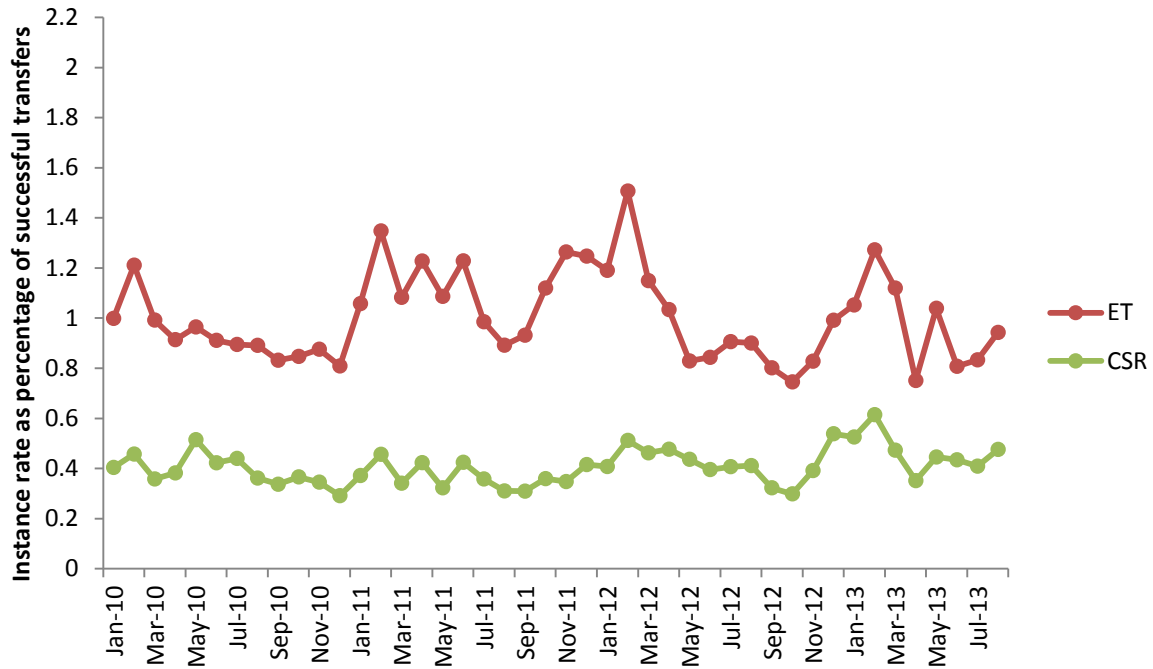
**Figure 1b: Erroneous transfer reasons - NHH electricity**



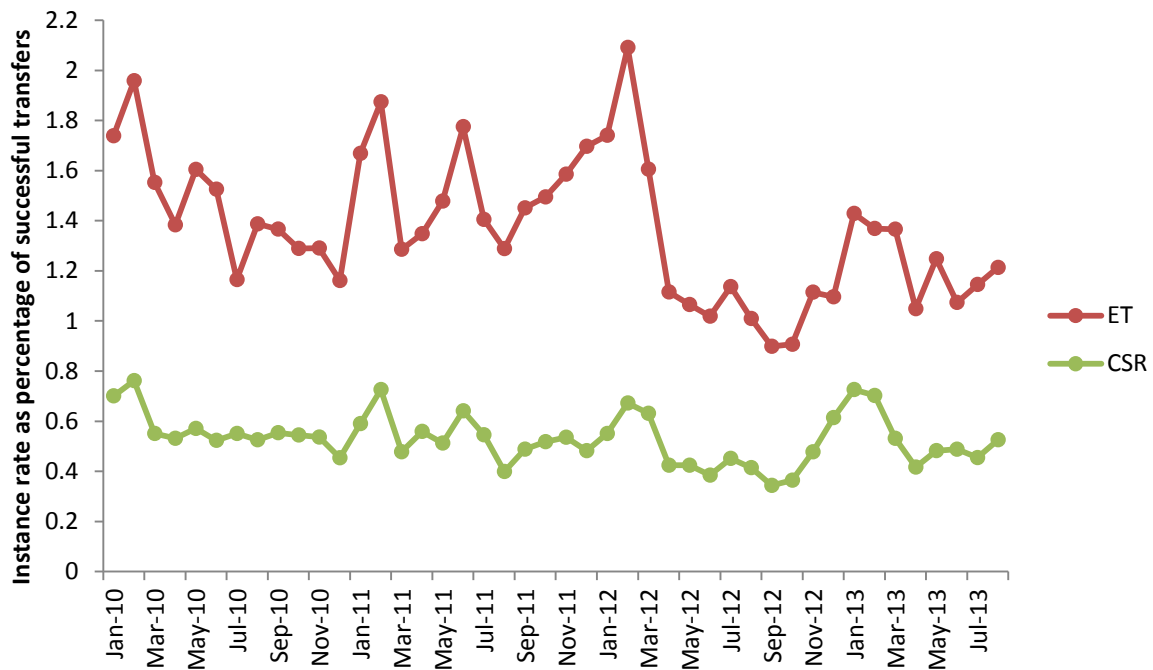
- Incorrect MPAN selected
- Cancelled Contract Not Actioned
- Forgery-Proven
- Suspected misleading information fraudulent practice and/or training issues

Figures 2a and 2b show the monthly ET and CSR rates as a percentage of successful transfers.

**Figure 2a: Erroneous Transfer and Customer Service Returner rates - domestic gas**



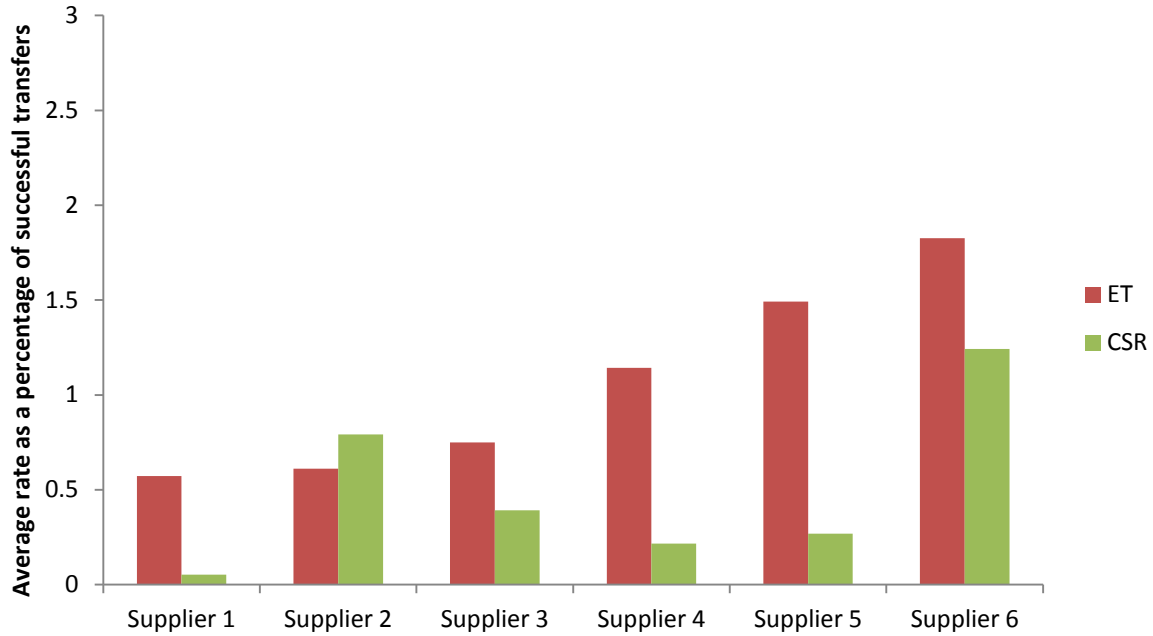
**Figure 2b: Erroneous Transfer and Customer Service Returner rates - NHH electricity**





Figures 3a and 3b show the average ET and CSR rates as a percentage of successful transfers for the Big Six suppliers over the past year.

**Figure 3a: Average Erroneous Transfer and Customer Service Returner rates from September 2012 to August 2013 - domestic gas**



**Figure 3b: Average Erroneous Transfer and Customer Service Returner rates from September 2012 to August 2013 - NHH electricity**

