

Contracts (SLCs 30, 41, 42, 44, 46 and 47) – Ofgem Discussion Document, 12 January 2006.

The purpose of this document is to provide an overview of the key areas to be tackled in the Duty to Supply, Contracts and Information workgroup on contracts. Please note that this paper is for discussion purposes only and does not seek to represent the view of the Authority. The specific SLCs being considered are:

SLC 30 – Debt Blocking

SLC 41 – Terms for supply of gas incompatible with standard conditions

SLC 42 – Domestic Supply Contracts

SLC 44 – Notification of terms

SLC 46 – Termination of contracts on notice and domestic transfer blocking

SLC 47 – Termination of contracts in specified circumstances

There are a number of key questions that reoccur when looking at these issues. These are;

- To what extent do gas and electricity customers require protection in these specific areas, in particular over and above customers of other goods and services?
- If customer protection is thought to be necessary, to what extent is there an overlap between existing gas and electricity regulations and general customer protection law?
- What would be the consequences of moving from existing gas and electricity regulation to general customer protection law?
- Where the SLCs afford suppliers rights, is it appropriate to retain these rights?

The first part of this paper highlights the general customer protection legislation that we have considered as part of this discussion and comments on the applicability of this legislation compared to the SLCs. The paper then reviews each of the above mentioned SLCs summarising their content, setting out any identified overlap with general customer protection legislation and then providing initial thoughts on whether the provisions within each of the SLCs should be removed, redrafted or retained.

1. Introduction to general customer protection legislation

1.1 The relevant law/legislation referred to in this note is as follows:

- (a) General contract law;
- (b) The Consumer Protection (Distance Selling) Regulations 2000 (the “Distance Selling Regulations”);
- (c) The Unfair Terms in Consumer Contracts Regulations 1999 (the “UTCCRs”);

- (d) The Unfair Commercial Practices Directive 2005 (the “UCPD”).¹
- (e) Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987 (the “Doorstep Selling Regulations”)
- 1.2 In writing this paper Ofgem have also considered the ERA paper on the “Comparison of the Standard Supply Licence Conditions with General Consumer Law” written by Roger Barnard and John Cooper.
- 1.3 In most cases of overlap, whilst the requirements of the SLCs and the law are similar in nature and purpose, they are not exactly the same. In most cases the SLCs provide greater protection to consumers.
- 1.4 The Enterprise Act 2002 has provided the Authority with certain powers against certain defined laws (including those noted at b), c) and e) above) to take action where any breach may harm the collective interests of UK consumers.
- 1.5 In considering taking action the Authority is required by the Enterprise Act to consult with the person against whom the enforcement order may be made and (except in very urgent cases) the OFT before applying to the court for an enforcement order.²
- 1.6 An application for an enforcement order (including an interim enforcement order if it is expedient that the conduct is prohibited or prevented) may be made to the High Court or a county court.³ The application must name the person the Authority thinks has engaged or is engaging in conduct which constitutes a domestic or Community infringement or is likely to engage in conduct which constitutes a Community infringement.⁴
- 1.7 The Authority may accept an undertaking from the person who it believes has engaged, or is engaging, in conduct that constitutes an infringement; it may decide that such an undertaking will avoid the need for it to apply for an enforcement order.⁵
- 1.8 Where the Authority believes that an enforcement order or an undertaking given to the court has been breached, it may make a further application to the court to enforce the order or undertaking.⁶
- 1.9 The Authority may make an application for an order in other European Economic Area (EEA) States in respect of Community infringements.⁷
- 1.10 The Authority has the power to require information (including documents) by means of a notice served on any person for the purposes of enabling it to consider whether to

¹ This is due to be implemented in the UK in December 2007

² Section 214

³ Section 215(5)

⁴ Section 215(1)

⁵ Section 219(2)

⁶ Section 220

⁷ Section 221

exercise its functions under Part 8 of the Act.⁸ It may also request information for the purpose of monitoring compliance with enforcement orders and undertakings it has obtained. If a person fails to furnish the information requested within the time specified, an application may be made by the Authority to the court for an order requiring the default in compliance to be made good.⁹

- 1.10 Removing obligations from the SLCs in favour of seeking enforcement under the Enterprise Act would provide a different set of enforcement powers for the Authority. For example, the Authority would no longer have the ability to impose financial penalties for past breaches.

2. SLC 30 – Debt Blocking

The requirements of SLC 30

- 2.1 The requirement for SLC 30 (for gas only) is that a non-domestic supplier may only request their shipper to prevent the transfer of one of their existing customers to an alternative supplier in certain defined circumstances. The circumstances being;
- a) where this is permitted by a provision within the customer’s contract,
 - b) with the agreement of a supplier who has initiated a transfer in error, and
 - c) where contracts were entered into prior to 5 January 2004 (the date of an amendment to SLC 30 to introduce objection reason “a” above) where the customer has an unpaid debt or has not terminated their contract.
- 2.2 The licensee must inform the customer when they block their transfer stating the grounds for the objection and how the customer may resolve these grounds.
- 2.3 Equivalent provisions for the electricity market are set out in the Master Registration Agreements (MRA).

Discussion

- 2.4 SLC 30 was subject to amendment to move the grounds of objections from proscription in the licence to individual contractual negotiation between customers and their suppliers. At this stage it is not Ofgem’s intention to seek further amendment to this SLC. The following link sets out Ofgem’s reasons for amending SLC 30 in January 2004.

http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/4127_IC_Objections_decision_document_Aug03.pdf?wtfrom=/ofgem/work/index.jsp§ion=/areasofwork/customertransfer

3. SLC 41 – Terms for supply of gas/electricity incompatible with standard conditions

⁸ Section 225

⁹ Section 227

The requirements of SLC 41

- 3.1 The requirement of SLC 41 (for both gas and electricity) is that the licensee shall not offer or vary terms in a domestic supply contract or deemed contract which are incompatible with the licence conditions. In addition the supplier should not enforce or take advantage of the inclusion or omission of terms incompatible with obligations or rights under the licence.

Overlap

- 3.2 We do not believe that there is any overlap between SLC 41 and general contract or consumer protection law.

Discussion

- 3.3 A licensee is required to comply with the conditions of its licence and may be subject to a penalty for breach of those conditions. Accordingly, the Authority may take action against a licensee for the inclusion or exclusion (as appropriate) of a contract term in breach of a licence condition. The effect of this is similar to the effect of breach of SLC 41(1). There is no equivalent overlap with SLC 41(2) or SLC 41(3).
- 3.4 Whether the licence had sought to take advantage of the inclusion or omission of such terms would be a matter for the Authority to consider in determining the enforcement action taken. This SLC was introduced before the Authority was granted powers to impose retrospective enforcement action and financial penalties. This SLC may therefore seek to replicate the existing obligations. It is arguable that it can therefore be safely removed.

4. SLC 42 – Domestic Supply Contracts

The requirements of SLC 42

- 2.2 The requirement of SLC 42 (for both gas and electricity) is that the licensee must supply only under a domestic supply contract (or deemed contract) and as a minimum, the contract must:
- (a) be in a standard form (but can have different forms for different circumstances);
 - (b) set out all the terms and conditions, including terms as to price (but different terms and conditions may be determined for different circumstances);
 - (c) contain terms reflecting the termination provisions of SLCs 46 and 47;
 - (d) contain terms which correspond as nearly as may be to those of a “deemed contract”;
 - (e) if applicable, identify separately the charges to be made for the supply of gas/electricity, for other goods sold, for other goods provided on hire and for services.

Overlap

- 4.2 Pursuant to general contract law, an agreement is reached by the process of offer and acceptance. The law requires there to be an offer on ascertainable terms (i.e. the terms must not be vague or indefinite) which receives an unqualified acceptance from the person to whom it is made. If, for example, the intended acceptance is not in accordance with the terms of the offer, the court may find there is no binding contract. Acceptance need not be in writing.
- 4.3 There is a similarity between the position at general contract law and under SLC 42. General contract law requires that an offer be made on ascertainable terms and SLC 42 requires that a contract set out all the terms and conditions. However, the requirement under SLC 42 is more prescriptive in this respect and generally.
- 4.4 The Distance Selling Regulations regulate contracts which are made exclusively by means of distance communication (e.g. telephone and internet). They require the supplier to provide certain information to the consumer (either prior to the contract formation or in good time after their conclusion) in a written and durable form. The Distance Selling Regulations also require the inclusion of information such as the price and when and how a consumer can terminate the contract.
- 4.5 Whilst some of the requirements of the Distance Selling Regulations overlap with those of SLC 42, in respect of contracts made by distance communication only, the Distance Selling Regulations do not, for example, require contracts to be in a standard form, the inclusion of terms reflecting the termination provisions of other licence conditions, terms which correspond to those of a deemed contract or charges to be expressed in any particular way.
- 4.6 The UTCCRs require all terms to be in plain and intelligible language. A term may also be considered to be unfair if it has the object or effect of irrevocably binding the consumer to terms with which he had no real opportunity of becoming acquainted before the conclusion of the contract. Neither of these requirements are replicated in SLC 42. Further, the UTCCRs do not set out certain terms and conditions which the contract must contain or require the contract to be in a standard form.

Discussion

- 4.7 It is Ofgem's view that SLC 42 is more prescriptive than general contract and consumer protection law.
- 4.8 It is not clear why the requirement to represent domestic contracts in a standard form should be retained. It is arguable that it should be up to suppliers to determine how they set out their contracts for customers given the overall requirement in the UTCCRs for terms to be in plain and intelligible language. It is therefore suggested that this obligation be removed.
- 4.9 It is not clear that the requirement to set out all terms within the contract should be removed. In particular there is a danger that terms agreed orally would not be included

in the written terms provided to customers. The current obligation provides certainty to customers.

- 4.10 The requirement for the contract to contain terms on termination does not appear to have specific overlap with other general customer protection legislation. It seems sensible to retain this requirement to ensure clarity over customer liability for energy charges. However, it may be possible to cover this requirement elsewhere and potentially with the specific requirements for termination arrangements as set out in SLC 46 and 47.
- 4.11 The Duty to Supply, Contracts and Information workgroup is due to review the provisions surrounding deemed contracts at its February meeting. It is proposed that this obligation be reviewed at that meeting.
- 4.12 It is suggested that the requirement to separately identify charges for electricity and gas from goods sold or on hire and other services should be retained. The provisions of the Gas and Electricity Acts and the SLCs contain rights for suppliers, for example on disconnection that should clearly be used for the purpose of the supply of energy only. Retaining this obligation will maintain the separation between suppliers' rights with regard to the supply of energy and other goods and services and prevent misuse of rights conferred under the Gas and Electricity Acts and licences.

5. **SLC 44 – Notification of terms**

The requirements of SLC 44

- 5.1 SLC 44 requires the licensee to provide the consumer with sufficient information to ensure that the consumer is aware of the principal terms of the contract:
 - SLC 44(1) The licensee must take all reasonable steps (prior to entering the contract) to draw the attention of the customer to the principal terms of the domestic supply contract;
 - SLC 44(3) In the circumstances stated the licensee must provide the consumer with a copy of the full terms of the contract within 5 days of entering into the contract or the customer making the offer;
 - SLC 44(4) If a domestic supply contract is due to expire, the licensee must offer terms for renewal of the contract, an accurate summary of the principal terms of other domestic supply contracts which the licensee will make available to the domestic customer, details of how the customer can obtain continuity of supply from the licensee and the principal terms of the deemed contract if no new contract is agreed;
 - SLC 44(6) If a contract allows for unilateral variation, the licensee must give notice of any such variation within the specified timescale and must inform the customer of his right to terminate the contract.

Overlap

- 5.2 General contract law has a specific requirement that if an exclusion of liability clause is to be inserted into an unsigned contract, the person against whom it is to operate must be given reasonable notice of its existence by the other party. The more onerous the consequences of the exclusion clause for the party on whom it is imposed, the more forceful the notice required. There may be overlap with SLC 44(1) where an exclusion of liability clause is a principal term of a supply contract. However, such overlap (if any) is limited.
- 5.3 SLC 44 is also more prescriptive than general contract law in that SLC 44(3) requires a copy of the terms to be provided to the customer (there is no requirement to give a written version of the contract under general contract law) and SLC 44(4) and (6) also regulate contract renewal and unilateral variation.
- 5.4 As noted in paragraph 4.3 above, the Distance Selling Regulations regulate contracts which are made exclusively by means of distance communication. The Distance Selling Regulations overlap with SLC 44, in respect of contracts made by means of distance communication, in that the principal terms are to be given in writing to the consumer (Regulations 7 and 8). However, this is not a direct overlap. Fundamental differences between the Distance Selling Regulations and SLC 44 include that SLC 44 requires the principal terms to be brought to the attention of consumers prior to entering the contract (whereas under the Distance Selling Regulations it may be post contract) and it prescribes the time within which the written terms must be provided (i.e. 5 days after the contract is entered into or the offer is made by the customer, rather than in good time after conclusion under the Distance Selling Regulations). In addition, SLC 44 specifically requires the licensee to offer terms for renewal of the contract and notice of a unilateral variation.
- 5.5 The UTCCRs indicate that a contract term will be unfair if it has the object or effect of enabling the seller or supplier to alter the terms of the contract unilaterally without a valid reason which is specified in the contract. A price variation is unlikely to be considered unfair if it is index-linked and/or the consumer is free to cancel without penalty. This is less prescriptive than SLC 44(6) which requires written notice of the variation to be provided to the customer within 10 days and which enables the customer to give valid notice of termination of the contract within 14 days of receiving the notice of variation. There is no guarantee that these timescales could be required/achieved under the UTCCRs.
- 5.6 The UTCCRs also require existing contract terms to be plain and intelligible. A term will be unfair if it binds the consumer to terms with which he had no real opportunity of becoming acquainted before the conclusion of the contract. Whilst this is not as prescriptive as SLC 44, there is an overlap (albeit indirect) with SLC 44(1) in that it requires the licensee to draw the attention of the consumer to the terms and conditions.
- 5.7 There is also an element of overlap with the UCPD (which is due to be transposed into domestic law by December 2007) to the extent that the directive addresses commercial practices directly related to influencing consumers' transactional decisions in relation to products (recital 7 of the UCPD). The UCPD applies to unfair business-to-consumer commercial practices and prohibits misleading or false information being given to the

consumer. Specifically, Article 7 provides that a commercial practice will be misleading if material information which the consumer needs to make an informed transactional decision is omitted. Arguably, this overlaps with the requirement in SLC 44(1) to draw the attention of the consumer to the principal terms. SLC 44 as a whole, however, is more prescriptive than the UCPD.

Discussion

- 5.8 In Ofgem's view SLC 44 is more prescriptive than general contract and consumer protection law.
- 5.9 It appears sensible to retain the requirement to draw customer's attention to principal terms prior to contract. As noted above there does not appear to be a direct or complete overlap with other customer protection legislation. The requirement to bring principal terms to customers' attention may assist in preventing customer complaints.
- 5.10 The requirement to provide customers with a copy of contract terms within 5 days where signed in the course of a visit to a customer premises, conversation in a public place or a telephone conversation is over and above the requirement of other customer protection legislation. It appears sensible for the customer to retain access to the terms and conditions of supply shortly after this event to provide certainty.
- 5.11 There does not appear to be an explicit requirement in general customer protection legislation to provide information to customers at least 30 days prior to the end of their contract. Where a contract ends a customer will either be supplied on a deemed contract (SLC28 (8) requires the supplier to provide the customer with copy of the terms and conditions of a deemed contract) or they will enter into an express contract and the principal terms of which the supplier will be required to inform the customer under the Distance Selling Regulations. However, there may be advantages to retaining this obligation to provide customers with a specified minimum period of notice of the impending end of their contract so that they can consider the options available to them.
- 5.12 Ofgem consider that customers should be informed of unilateral variations in terms over and above those expressly agreed in contract which operate to the disadvantage of customers and be afforded the right to terminate the contract. This is covered to some extent by the UTCCRs but does not include the customer's right not to incur the revised price. The requirement to provide written notice arguably restricts supplier ability to make price changes as they will incur a transactional cost in so doing. Some parties may suggest that other means of communication may be adequate. On the one hand emailing customers with internet accounts may be appropriate as this is the customers preferred method of communication and will be brought to the attention of each customer individually, however an advert in a national newspaper may not be sufficient to meet the policy objective. Further, we should be aware that any change to the definition of a valid termination notice (currently a valid termination notice is one provided at least 28 days in advance of the proposed effective date) would need to consider the impact on these provisions.

6 SLC 46 – Termination of contracts on notice and domestic transfer blocking

The requirements of SLC 46 (Termination of contracts on notice)

- 6.1 A domestic supply contract must contain a term allowing the customer to validly terminate the contract at any time by giving 28 days' notice and on paying a termination fee. A notice of termination which is not valid will not be effective in terminating a domestic supply contract. A termination fee will not be required in certain circumstances (e.g. if the contract was of indefinite duration and terminated outside a fixed contract period).

Any termination fee must not be greater than what the supplier may in all the circumstances reasonably require.

Discussion

- 6.2 General contract law provides that if a contract contains an express or implied provision that one of the parties to it may terminate the contract by notice, notice must be given in accordance with the terms of the contract. In particular circumstances there may be an overlap with SLC 46. However, it is not direct since SLC 46 defines exactly what constitutes an invalid notice in this context.
- 6.3 The UTCCRs do overlap directly with SLC 46 (6)¹⁰ in relation to the termination fee. Pursuant to paragraph 1(e) of Schedule 2 of the UTCCRs, a term may be unfair if it has the object or effect of requiring a consumer who fails to fulfil his obligation to pay a disproportionately high sum in compensation. A term which says that an inflated sum could be claimed if the consumer cancels the contract is likely to be challenged as unfair.

Initial View

- 6.4 Ofgem's initial view is that, other than for SLC 46(6) which can be said to directly overlap with the UTCCRs, SLC 46 is more prescriptive than general contract and consumer protection law.
- 6.5 Some commentators have argued that the obligation to allow customers to terminate contracts on providing 28 day's notice has restricted innovation in the market. The argument follows that, if the customer is able to transfer away from the supplier with such ease then the supplier is not incentivised to offer innovative contracts that would require payback over a longer time period. Ofgem supports removal of this obligation from the licence to encourage suppliers to provide innovative contractual offerings. However, we note that suppliers already have the right to charge termination payments in certain circumstances (and these have been included in some suppliers' "price freeze" contracts). In removing the right of customers to terminate contracts on 28 days notice it is not Ofgem's intention to allow suppliers to enforce this requirement through a right to object to a customer transfer. Where a customer seeks to move to another supplier in circumstances not permitted by the contract then a supplier should not be able to block

¹⁰ SLC 46(7) of the Electricity Supply licence

the transfer on grounds of lack of termination notice. Instead, suppliers should seek to manage their credit risk as do suppliers of goods and services in other markets.

- 6.6 Ofgem considers that the limits on the amount of the termination fee may not be required. The UTCCRs provide that such payments should not be disproportionately high.

The requirements of SLC 46 (Domestic transfer blocking and PPM debt assignment)

- 6.7 The requirement for SLC 46 (for gas only) is that the licensee may only request their shipper to prevent the transfer of one of their existing domestic customers to an alternative supplier in certain defined circumstances. The circumstances being;

- a) where the customer has an unpaid debt which has been outstanding for greater than 28 days,
- b) with the agreement of a supplier who has initiated a transfer in error, and
- c) where the customer states not to have entered into a contract with an alternative supplier (a Customer Requested Objection). The supplier must retain evidence of the customer request and inform the other supplier in this instance, and
- d) where the customer is bound by the terms of a contract of a type specified in a direction issued by the Authority

- 6.8 The licensee must inform the customer when they block their transfer stating the grounds for the objection and how the customer may resolve these grounds.

- 6.9 There are also provisions to prevent a supplier objecting to a transfer of a prepayment customer where the customer and other supplier agree to the assignment of any outstanding charges.

Discussion

- 6.10 There has been considerable debate on debt objections. It has been Ofgem's stated view that the right of domestic suppliers to object on grounds of debt should be removed. This view is based on a number of factors. Firstly, the distortionary impact of debt objections on the market. In particular these manifest themselves through suppliers not having to respond to the normal risks associated with the providers of goods and services on a credit basis. This may lead to a weakness in industry approaches:

- Reduce supplier incentives to manage customer debt efficiently,
- Debt blocking rules as currently drafted are a "drag" on competition operating at around 6.6% of all domestic electricity transfers and 6.4% of attempted gas transfers.

- 6.11 In addition, the current debt-blocking rules have displayed several major weaknesses:

- Suppliers have the right to block a transfer when very small sums have remained unpaid over quite a short period (28 days), which means transfers may be blocked when there is no debt in the usual sense of the word,
- Suppliers have not been forthcoming with innovative contract offerings that seek to reduce their exposure to credit risk, and
- Suppliers have reduced incentives to bill and collect effectively, since debt blocking means that even if they send a very late, very large bill, they are able to keep the customer and so force payment. The current debt blocking rules create a large imbalance of bargaining power between supplier and customer in any commercial dispute. NB: this may be reduced through restrictions on back billing.

6.12 Because of these detriments, Ofgem has a long-standing commitment to eliminate debt-blocking, given the consumer and competition detriments. Considerable effort has been expended on:

- Allowing indebted customers to change supplier through a debt assignment scheme (a scheme for some PPM customers is now in place), and
- Compliance action against four major suppliers for incorrect use of debt objections. This has brought down objection rates by around half. However, this has been extremely labour-intensive, and there is no reason why this effect should be permanent. This action has reinforced our view that the objections mechanism is open to being misused, and also that current approaches are costly for suppliers to manage.

6.13 There have however been arguments put forward for retaining debt objections. Without a significant shift in suppliers' billing accuracy, frequency and follow-up or a radical change in metering technology, the nature of credit meters means that customers are likely to attempt to switch supplier whilst having an outstanding debt. An alternative to debt blocking is that suppliers increase their debt follow up activity. This will increase the costs to serve customers. What we do not know at this stage is whether the costs of increased debt recovery activity (and benefits of this approach) are greater than the costs of retaining debt objections and stifling innovation, in particular for prompt paying customers.

6.14 It is also possible that, were debt objections to be removed, that suppliers increasingly seek to introduce security deposits and the use of PPM meters to mitigate the risk of customers transferring in debt. It is arguable that this is a rational response to debt management issues however, this may restrict customer choice in the market.

6.15 Further, if a customer in debt transfers then they are likely to be asked to repay the debt in one lump sum. This may not be possible and may trigger formal debt recovery procedures. However, the licence requires a customer's current supplier to offer payment plans and PPM meter and an attempt to transfer may trigger this response from a supplier. It is arguable that it is in customers' interests to be afforded payment plans and then re-enter the competitive market once debt has been cleared.

- 6.16 The extent to which the provisions to allow PPM customers in debt to transfer continues to be required will depend on the outcome of the wider debate on debt objections. If debt objections are removed then this facility may not be required. However, without the debt assignment protocol, customers may be required to pay large final bills rather than have these bills assigned to their new suppliers.
- 6.17 It is Ofgem's view that the right of suppliers to block transfers when a transfer has been made in error should be retained as they operate in the interests of both suppliers and customers.
- 6.18 The unilateral nature of the objection process means that it would be sensible to retain the requirements on suppliers to provide information to customers (and suppliers when relevant) when they make an objection. Including in particular for customers the reason for the objection and how to resolve the grounds upon which the objection was made.
- 6.19 It is Ofgem's intention to retain the right of suppliers' to object where a customer is bound by the provisions of their contract and the contract is of a kind specified in a direction made by Ofgem.

7 **SLC 47 – Termination of contracts in specified circumstances**

The requirements of SLC 47

- 7.1 Domestic supply contracts must include certain specified termination provisions. The domestic customer remains liable for charges for the supply of gas/electricity until the date of termination and where the contract is for the supply of gas and other goods or services, on its termination, the licensee may require the customer to give any reasonable security for the customer's future compliance with those aspects of the contract as relate to the provision of goods and services.
- 7.2 In particular, SLC 47(3) provides that a contract may be terminated within 5 days of the date of a fixed term contract (i.e. a cooling-off period).

Overlap

- 7.4 Pursuant to the Distance Selling Regulations and the Doorstep Selling Regulations, the consumer has a 7 day cooling-off period during which he has an unconditional right to cancel the contract. These regulations are limited in their application; the Distance Selling Regulations will only apply to the extent that the contract is made exclusively by means of distance communication and the Doorstep Selling Regulations will only apply to contracts which are concluded away from the trader's premises and the total cost is over £35.
- 7.5 Pursuant to section 94 of the Consumer Credit Act 1974, the debtor of a regulated consumer credit agreement may (by giving 28 days notice) and payment of all outstanding amounts, discharge his indebtedness. SLC 46 is wider than this section in

that it applies to all supply agreements, not just where supply is given on credit. In addition, pursuant to SLC 46, the consumer will not be required to pay a termination fee in certain circumstances.

Discussion

- 7.6 In Ofgem's view, SLC 47 is more prescriptive than general contract and consumer protection law.
- 7.7 The nature of continuity of energy supplies once a customer has ceased to own or occupy a premise makes it sensible to have clear guidance on the customer's liability for energy charges. This is also of benefit to suppliers in clearly stating their rights to customers. It therefore appears sensible to retain the termination arrangements set out in paragraphs 1 and 2 of this condition.
- 7.8 The requirement to offer a cooling-off period after a fixed term contract has been signed is a feature of the Distance Selling Regulations and the Doorstep Selling Regulations. The question for the group to consider is whether these two sets of regulations cover all instances where a fixed contract can be entered into or whether there are other instances where customers would require this protection.
- 7.9 Finally, the right of suppliers to demand security for ongoing provisions of other goods and services once the energy part of the contract has been terminated does not appear to sit comfortably in a licence for the provision of gas and electricity. As noted above the UTCCRs place demands on the fairness of any security demanded by suppliers. It is therefore suggested that this provision should be removed.