



To all stakeholders

*Promoting choice and value for  
all gas and electricity customers*

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Dear Colleague

**Consultation on practices concerning fixed term offers in the domestic retail energy market.**

In January 2011 we published a consultation looking at practices surrounding fixed term offers in the domestic retail energy markets in GB<sup>1</sup>. This work was prompted by the increased prevalence of fixed term offers in the market and growing concerns about the quality and quantity of information received by consumers on, or who were considering, such offers. In our consultation we noted our concerns over current practice and consulted on a range of potential policy options to address those issues.

As noted in our consultation document we are also looking at this issue in the context of our wider examination of the retail energy markets under the Retail Market Review<sup>2</sup>. This letter notes key proposals from our consultation on fixed term offers and responses received. It also outlines our current views on fixed term offers and what steps we intend to take with regard to this work in future.

*January consultation on fixed term offers in the domestic market*

This consultation set out four policy options:

- Option 1: Continue to use current arrangements
- Option 2: Draw on existing rules and issue guidance clarifying our interpretation
- Option 3: Introduce new rules to provide additional protections, increase transparency and promote consumer engagement
- Option 4: Introduce new rules to limit suppliers' ability to automatically roll over a fixed term offer

Based on the current market framework, we recommended pursuing both Option 2 and Option 3 together. This consultation closed on the 7<sup>th</sup> March 2011.

*Responses to consultation*

The consultation asked respondents a range of questions. The key questions we asked interested parties were:

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<sup>1</sup>Consultation on practices concerning Fixed Term Offers, 24<sup>th</sup> January, Ref 09/11,  
<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=110&refer=Markets/RetMkts/Compet>

<sup>2</sup> The Retail Market Review, 21<sup>st</sup> March 2011, Ref 34/11  
<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=1&refer=Markets/RetMkts/rmr>

- Do you agree that our concerns are valid?
- Are there any additional areas of practice around fixed term offers which may raise concerns?
- What are your opinions of the options outlined?

We received responses to our consultation from 12 organisations, representing a range of stakeholders and a wide range of views. Out of the 12 respondents, a number of suppliers agreed with our recommended proposal. The remaining suppliers thought we should rely on existing rules only, while the consumer groups and switching websites that responded felt the practice of automatically rolling contracts over for fixed term periods should be banned.

All stakeholders who responded to our consultation agreed that, based on evidence set out in the document, our concerns were valid. In addition, all respondents were keen that Ofgem address any current practices around fixed term offers where there are concerns about compliance with existing standard licence conditions.

Some consumer groups also noted concern that some vulnerable customers may be on a fixed term offer, and any consumer detriment arising from current practice may be heightened for these consumers.

The majority of suppliers felt the evidence provided in the consultation did not show a sufficient level of consumer detriment to warrant introduction of new rules in this area, and that the creation of bespoke licence conditions was not a proportionate response to the potential scale of consumer harm.

#### *Our work in a wider context: The Retail Market Review*

In November 2010, an investigation was launched into the energy markets in Great Britain for households and small businesses. The findings of the Retail Market Review were published on the 21<sup>st</sup> March 2011. We identified that consumer engagement is a key driver for competition and there are a number of features of the market that are working against the interests of consumers. To address the concerns we identified in the Retail Market Review, we proposed a number of regulatory interventions to make the market work more effectively for consumers. Notably, the following findings are relevant to the consideration of fixed term offers:

- To make it easier for domestic consumers to compare prices and choose better bills.
- To strengthen the Probe remedies, and where necessary enforce measures, to achieve their objectives.

To achieve these goals we put forward a variety of high level policy proposals. In particular, we proposed suppliers be limited to one evergreen product per payment method and all other contracts would be for fixed term. Customers with fixed term products would receive notification in advance of the contract end date containing a new product offering. Within this context, and that of other policy proposals presented in the publication, we proposed to prevent suppliers automatically rolling customers on to a new fixed term product without their express consent.

These proposals are discussed in more detail in Chapter 3 of the Retail Market Review report. We are seeking consultation responses on these proposals by the 1<sup>st</sup> June 2011.

#### *Next steps*

Given the Retail Market Review proposes significant changes to the nature of tariff offerings, we consider that it makes sense to not undertake new action with regard to fixed term offers at this time. Instead, any further work concerning new protections for domestic consumers on fixed term offers will be considered as part of the Retail Market Review next steps.

In the meantime, we expect suppliers to be mindful of their practices around fixed term offers and ensure they comply with relevant licence conditions and consumer protection law as described in our January 2011 consultation document. In addition, we remind suppliers that recent modifications to standard licence conditions 23, 14 and 24 were effective as of the 28<sup>th</sup> April 2011<sup>3</sup>. These licence conditions require suppliers to notify customers of any price increase or a unilateral contract variation that is of significant disadvantage to the customer. The modification to this licence condition replaced the retrospective 65 working day notification period, and now requires such notification at least 30 calendar days in advance of a relevant change to a consumer's contract. If we suspect there are cases of non-compliance we will pursue enforcement action, as appropriate.

We are happy to engage with suppliers and stakeholders on this issue going forward. We would like to take this opportunity to thank those who responded to our consultation for their input to date. If you would like to get in touch to discuss the matter further, in the first instance please contact Katie Brennan (Email: [Katie.brennan@ofgem.gov.uk](mailto:Katie.brennan@ofgem.gov.uk)[mailto:](mailto:Katie.brennan@ofgem.gov.uk), tel: 020 7901 7195)

Yours Sincerely,

Emma Kelso

Associate Partner  
Retail & Market Processes

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<sup>3</sup> Decision to make modifications to standard conditions 23, 14 and 24 of the supply licences, 28<sup>th</sup> March 2011, Ref 43/11  
<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=38&refer=Markets/RetMkts/Compl/pricechange>