

The Retail Market Review: Non-domestic Proposals

Consultation

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Overview:

This consultation document builds on the issues we set out in March this year in our Retail Market Review consultation. It focuses on proposals for the non-domestic (business) retail market. They aim to:

- help more business customers be aware of their contract terms
- improve the supplier switching experience for business customers
- increase confidence when using third party intermediaries
- improve customers' trust in suppliers

We believe that our proposals will help all business customers engage more effectively in the market, leading to greater and more effective competition.

These proposals represent an important development in the functioning of the non-domestic retail market. We want to encourage all stakeholders to respond and share their views.

Our deadline for responses to this consultation is **15 February 2012**.

Context

Ofgem's principal objective is to protect the interests of consumers, present and future¹. The Retail Market Review (RMR) represents Ofgem's attempt to enhance competition in the retail energy markets and make it work more effectively so that the benefits can be realised for more consumers.

The proposals presented in the document are the results of one of the five workstreams we set out in our March RMR consultation. These are proposals relating to strengthening the Probe remedies in the non-domestic market. Proposals to improve tariff comparability and proposals to strengthen the Probe remedies in the domestic market will soon be published in a separate consultation document². Proposals to improve market liquidity are expected to be published before the end of the year and the initial findings from the accountant's study of company segmental accounts will be published early in 2012.

With this consultation document we have also published the draft legal text for new and amended licence conditions. We are also publishing our draft impact assessments on the proposals in a supplementary appendix.

Associated documents

- The Retail Market Review – Draft Impact Assessments for Non-domestic Proposals, November 2011, Reference: 157A/11
- The Retail Market Review – Findings and Initial Proposals, March 2011, Reference: 34/11
http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Documents1/RMR_FINAL.pdf
- Small and Medium Business Consumers' Experience of the Energy Market and their Use of Energy, June 2011.
<http://www.ofgem.gov.uk/Sustainability/Cp/CF/Documents1/SME%20Attitudes%20%20Behaviours%20Report.pdf>
- Energy Supply Probe - Proposed Retail Market Remedies, August 2009, Reference: 99/09
<http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Retail%20package%20-%20decision%20document.pdf>
- Energy Supply Probe - Initial Findings Report, October 2008, Reference: 140/08
<http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Energy%20Supply%20Probe%20-%20Initial%20Findings%20Report.pdf>

¹ This includes the interest of consumers in Ofgem ensuring that customers benefit through the efficient functioning of their national market and in Ofgem promoting effective competition and helping to ensure consumer protection pursuant to Articles 40(g) of Directive 2009/73/EC and Article 35(g) of Directive 2009/72/EC.

² Non-domestic suppliers should note that some proposed changes to legal text that will be published in the domestic consultation document relates to supply licence conditions that apply to both domestic and non-domestic suppliers.

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Executive Summary

Ofgem's duty is to protect the interests of all consumers, including businesses. Business customers should be able to get the best energy deal without unnecessary difficulties. This consultation sets out a range of proposals for the non-domestic retail sector to help the market deliver this outcome. They have been developed from the issues and concerns we set out in our March Retail Market Review (RMR).

Respondents to that consultation, our analysis and our wider interactions with business stakeholders have confirmed that the issues we set out in March were the right areas to focus on. Proposals to strengthen the domestic market, including enhancing tariff comparability, will soon be published in a separate document. We will also be publishing our proposals to improve market liquidity before the end of the year.

The non-domestic energy market has different characteristics to the domestic market. There are many more suppliers, most contracts are for fixed terms, and more customers access the market through third parties (eg brokers). Our proposals in this document aim to help business customers get better information at each of the 3 key stages in their energy contract lifecycle; when they are looking for the best deal, entering into a contract, and switching to it. We are also doing more ourselves to help business customers know their rights and engage more effectively.

Protections for smaller business customers

We have been making sure that suppliers are correctly complying with a standard licence condition (SLC) we introduced, as part of the Probe, for micro business customers (SLC 7A). And in March, we asked stakeholders if they thought other, larger business customers would benefit from the informational and contracting rules in this licence condition. Respondents did not want us to extend it to large business customers. But we had a lot of support to widen slightly to include a wider range of smaller businesses not currently covered by these rules. These views have been backed up by research findings. So we are consulting on a **new 'Small business' definition**. This would expand³ our SLC 7A protections to businesses with fewer than 50 employees and an annual turnover no more than €10million⁴, which is five times the size of a "micro business" as previously defined. The energy specific part of the definition links back to the current industry framework by including electricity customers on Profile Classes 3 and 4, and gas customers who consume no more than 293,000 kWh per year (the boundary before mandatory monthly meter reads).

We have also listened to consumer groups on other issues with SLC 7A. In particular, they are worried that small business customers could face higher costs because we

³ The current micro business definition includes businesses that have fewer than 10 employees and an annual turnover of no more than €2 million; or consume no more than 55,000 kWh of electricity, or use no more than 200,000 kWh of gas.

⁴ This is the European Commission's definition of a Small business.

allow suppliers to extend, or rollover, contracts. We agree that we need to have another look at this. We will therefore be **reviewing the rollover clause in SLC 7A** after we have taken a decision on our current consultation as to whether to expand SLC 7A. To look robustly at the impact on customers and suppliers, we first need to know who the licence protects.

Objections to supply transfer

A fundamental part of our energy market is the ability of a customer to switch supplier when they find a better deal. We have taken a detailed look into what is happening in the non-domestic market and believe that widespread objections to a change of supplier by some suppliers may amount to breaches of our relevant licence conditions that could be causing significant consumer harm. Enforcement action is under active consideration. In the meantime, we are publishing an open letter to not only remind all non-domestic suppliers of their obligations but to also highlight what we consider to be good practice. We are also going to be using our new market monitoring powers to require non-domestic suppliers to submit to us data on their objections actions. We intend to continue to monitor this area closely and may consider licence changes, or further investigations, in the future.

Third party intermediaries (TPIs)

Since we voiced our concerns about the practices of some TPIs in our March RMR, there has been a lot of activity. A number of parties put forward Codes of Practice (CoP) they would like to develop, while a TPI association with an existing code has sought ways to make it available to non-members. We welcome these efforts to get better results for customers. But we want affiliation to these codes to mean something to customers. We think there are some key elements that should be in every code to really help protect energy customers, including monitoring and complaints procedures for non-compliance. So we are proposing to set up an accreditation scheme for CoPs applying in the non-domestic energy sector. Our initial views on what CoPs would need to include have been set out in this document. We want to support the existing market developments and believe this action will help. We will be looking to develop this with TPIs, suppliers and consumer groups, starting with a meeting during this consultation.

TPIs do not operate under licence and are not covered by sector specific regulations and legislation. We do not currently have powers to regulate the activities of TPIs directly. And in many cases they don't have a direct relationship with suppliers, so we can't always address their behaviour through licence conditions that would apply to suppliers. So we have developed a **three-pronged approach** to impact positively on the market in a way that could not be achieved by one approach alone. In addition to setting up an accreditation scheme for CoPs, we are also proposing to insert a licence condition for non-domestic suppliers to regulate how they and their Representatives interact with business customers. We have also asked government to consider granting us powers to enforce the Business Protection from Misleading Marketing Regulations – that would allow us to enforce against misselling in the business market.

Proposals on enhancing the Standards of Conduct

We also believe that we need stronger and broader Standards of Conduct (SOCs) to more generally improve suppliers' conduct and give consumers more confidence in their energy supplier. We propose recasting the existing SOCs and applying them to all interactions between suppliers and consumers - and we are consulting on whether they should apply to all business customers. We are also proposing to make them **binding and enforceable** in relation to all suppliers by incorporating them into a licence condition.

Next steps

We believe our proposals are proportionate and will be the fastest way to get improvements in the market and help it work better for business customers. This also fits well with government's wider agenda to support businesses. We would now like to hear your views. We have included drafting on proposed licence conditions to show how we could enact these measures. We want to work constructively with stakeholders to put these arrangements in place as soon as possible. Our deadline for responses to this consultation is **15 February 2012**. We look forward to hearing from you.

1. Introduction

Chapter Summary

This chapter puts this document in context with wider RMR work and highlights the areas to be discussed. It also sets out that we will not, at this stage, be proposing to extend our domestic tariff proposals into the non-domestic sector. But we are doing more to help business customers get the best out of the market.

Question 1: Are there other key issues that we should be looking into in the non-domestic sector?

Question 2: What would stakeholders like to see on our website to help business customers and support a competitive supply market?

1.1. This consultation builds on some of the issues we set out in our Retail Market Review⁵ (RMR) in March this year. In the RMR we set out five proposals to help the energy retail markets in GB work better for consumers. There were:

- Proposal 1: Improve tariff comparability
- Proposal 2: Enhance liquidity
- Proposal 3: Strengthen Probe remedies – domestic
- Proposal 4: Strengthen Probe remedies – non-domestic
- Proposal 5: Improve reporting transparency

1.2. The proposals we present in this document build on the issues we set out underneath Proposal 4. This document therefore focuses on the non-domestic retail market. The main areas of concern we highlighted in March were:

- Suppliers needed to comply more rigorously with our standard licence condition (SLC) on protections for micro business customers (SLC 7A). We also suggested extending the reach of this licence condition so that more businesses could benefit from clearer information.
- There were many more objections to supply transfer than we would expect. We said that we would seek explanations, examine the reasons, and consider if existing licences has been breached or if new licence conditions would be needed.

⁵ The Retail Market Review – Findings and initial proposals, Ref 34/11. Published at the following link:
<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=1&refer=Markets/RetMkts/rmr>

- We also wanted to look into how we could reduce the potential harm some customers could face through the actions of some third party intermediaries (TPIs). We said that we were considering new licence conditions to regulate the relationships suppliers have with third parties. And we said that we may ask for more powers from government.
- We considered our objections and TPI work in the context of our Standards of Conduct and said that we were considering whether we needed to extend elements of them into non-domestic SLCs.

1.3. Respondents to our consultation were very supportive of us looking into these areas. So, since March we have reflected on the comments we received, reviewed consumer research and other feedback from consumers, and liaised with stakeholders. We have now designed more explicit proposals that we believe will help to address our concerns. We have expanded on each of these four areas in the following four chapters respectively. The final chapter in this document sets out our next steps. Supporting draft documents, including draft licence condition proposals, are in the appendix of this document, while draft impact assessments on our proposals are published in a separate Supplementary Appendix⁶.

Other issues

1.4. In our March RMR we also asked if we should extend our domestic tariff proposals into the non-domestic sector. While there were a small number who felt there may be some benefit in doing this, most respondents felt that it was more appropriate to focus first on the domestic proposals and then, once they were in place, keep under review an option to expand into the non-domestic market, if appropriate. We consider this to be a proportionate view and are therefore not, at this stage, setting out proposals for tariff simplification in the non-domestic sector.

1.5. We also said in March that there were some key issues that we wanted to remind business customers about. Since then we have worked with stakeholders and published two factsheets⁷ giving businesses advice on switching and understanding their energy contracts. We are also looking at revamping the information we put on our website for business customers to make it easier to find and be a useful source of information.

⁶ The Retail Market Review – Draft Impact Assessment for Non-domestic Proposals. Reference: 157A/11.

⁷ On our website at the following link:
<http://www.ofgem.gov.uk/Consumers/Pages/Bc.aspx>

2. Standard Licence Condition 7A: Protections for smaller businesses

Chapter Summary

Our March consultation stated our intention to consider extending the reach of our protections for micro businesses. We present below our proposal to extend these protections to a new small business definition based on industry processes and definitions used by the European Commission. This will improve small businesses' visibility and understanding of their contracts. Once we have an agreed coverage for this SLC, we will review whether or not automatic rollovers should be allowed.

Question 3: Do stakeholders agree with our proposals to extend the scope of SLC 7A to include a wider small business definition, and do you agree with our proposed definition?

Question 4: Do stakeholders foresee significant costs or complications if we were to introduce our proposals? If so, please provide details and cost estimates.

Question 5: Do stakeholders agree with our estimates on the number of extra businesses covered by our proposed definition?

Question 6: Do stakeholders agree that we should review termination procedures and our current position that allows automatic rollovers?

Question 7: Are there other clauses that stakeholders believe we should be reviewing, in light of our expanded definition proposal?

Introduction

2.1. Traditionally, business customers did not have as much consumer protection in the energy market as domestics. It was felt that they could effectively procure energy supply, as they do in other areas of their business. But in 2008, our Probe found that many smaller business consumers were not fully aware of the terms of their contracts, especially those dealing with how and when they could move supplier. As a result we introduced a new standard licence condition 7A (SLC 7A) in January 2010 to identify and protect the interests of smaller businesses. We used an existing definition of a "micro business"⁸. This definition is used to qualify consumers for protection under the Energy Supply Ombudsman scheme and the Complaint Handling Standards.

⁸ A micro business is defined in Article 2(1) of The Gas and Electricity Regulated Providers (Redress Scheme) Order 2008 as including businesses that employ fewer than ten people and have an annual turnover no more than €2 million; or which uses no more than 200,000 kWh of gas per year or 55,000 kWh of electricity per year;.

2.2. The Retail Market Review in March 2011 set out that we were examining compliance with SLC 7A. Our initial view was that suppliers could be doing more. We have contacted them to point out specific areas that needed improvement. In the meantime, there has already been some evidence⁹ that our licence condition is having a positive effect on micro business customers. In fact, a number of business consumer representatives have said that there were small businesses outside of our micro business definition that needed similar protections. We consulted on this proposal.

2.3. We received responses from large and small suppliers, consumer groups, brokers and one large business user. Consumer groups broadly agreed with extending SLC 7A, with some suggesting it should be applied to all businesses. A number of suppliers also supported this, largely as they already treated all small and medium enterprises (SMEs) as they would a micro business. There was general resistance to extending the SLC to larger businesses.

2.4. We now set out an update on our compliance work, and propose a new customer group to be included in our SLC 7A protections.

Compliance report-back

2.5. Our review of suppliers' compliance with SLC 7A showed that all suppliers have taken some steps to comply. And the majority of suppliers appear to be working within the spirit of SLC 7A in their dealings with micro business consumers. This is positive. However, there are a number of technical deficiencies with some of the suppliers' materials. These need to be resolved.

2.6. The first main issue identified is that of suppliers not providing either full, or accurate, information to micro business consumers in their Principal Terms and Statement of Renewal Terms about the duration of a contract. This concept of duration is divided into two main areas:

- information relating to the rollover of a fixed term contract (including a clear statement that the micro business consumer can prevent the automatic rollover of a fixed term contract at any time from the start of the contract up until the end of their renewal window); and
- information about the consequences of terminating the contract (including whether a customer will be moved onto 'deemed' or 'out-of-contract' rates if they opt out of rollovers but do not move away from the supplier).

2.7. It is crucial that suppliers provide clear and accurate Principal Terms and Statement of Renewal Terms as these contain the information that is most relevant to micro business consumers.

⁹ Forum of Private Business Utilities Report, December 2010

2.8. Another key issue is that the majority of suppliers' express Terms and Conditions are still not written using language that is "plain and intelligible" as required by SLC 7A.5(b). There are examples of some suppliers who have taken very good steps to make their Terms and Conditions clear and understandable. However, many need to do more.

2.9. We have sent letters to 21 suppliers setting out the minimum areas where we felt they needed to work on. We gave the suppliers 2 calendar months to make the changes and submit to us evidence of this change. We are currently reviewing the response we have received to date in line with our enforcement guidelines.

2.10. Overall we have given a lot of additional support to suppliers to drive compliance with this licence condition. We have issued Guidance¹⁰, sent these letters to suppliers and met with all those who requested a subsequent clarification meeting. We will therefore take very seriously any future complaints about the actions of suppliers in relation to this condition, and will take enforcement action where we consider this to be appropriate¹¹.

SLC 7A expansion: Issues and research

2.11. Earlier this year we commissioned research¹² to provide insight into SMEs' use of energy and their market experience. Our findings supported other research that smaller businesses outside of the current SLC 7A scope are very similar to micro businesses. They appear to be no more engaged with the market and also seem to behave more like domestic consumers than medium and large business customers¹³. This is also the clear message we have received from small business consumer groups. In contrast, medium sized businesses show much higher awareness of contracts and change supplier more often, which leads us to believe that they do not require specific regulatory protection in this area. We set out the main areas of contrast below.

- **Poor contract understanding:** Less than half of small businesses¹⁴ in our research said they are aware they actually have an energy contract and

¹⁰ This can be accessed at <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=104&refer=Markets/RetMkts/Competition>

¹¹ See our Enforcement Guidelines at <http://www.ofgem.gov.uk/About%20us/enforcement/Documents1/Enforcement%20Guidelines%20post%20consultation.pdf>

¹² Harris Interactive, Small and Medium Business Consumer's Experience of the Energy Market and their Use of Energy, report to Ofgem. March 2011. This can be accessed at <http://www.ofgem.gov.uk/Sustainability/Cp/CF/Documents1/SME%20Attitudes%20%20Behaviours%20Report.pdf>

¹³ For example, medium sized businesses tend to use brokers to save time in finding the best deal. However, small business appear to engage with the market in a way more similar to micro businesses, with less usage of brokers and less switching of suppliers.

¹⁴ Business definitions used in this research were as follow: Micro – 1-10 employees (turnover less than £2m), Small – 11-50 employees (turnover less than £10m) and Medium – 51-250

understanding of the contract can be poor¹⁵. In contrast, the majority of medium sized businesses were aware of an energy contract.

- **Low switching rates:** There is little difference in the switching rates of micro and small businesses. In both groups only around a third claim to have recently switched. Meanwhile, nearly two thirds of medium sized businesses questioned had switched at their last renewal.
- **Small businesses no more informed than micro:** Research¹⁶ has indicated that businesses with more than 10 employees were no better equipped to deal with energy contracts than micro businesses.

2.12. We engaged PA Consulting to review our options for expanding our protections. They reviewed the evidence, definitions used in other countries, and definitions used within the GB energy market. In summary, they noted that there is a balance between offering protection and impeding innovation. There is a risk that offering such protection to the engaged sector of the market could impede contract offerings and the ability to deliver bespoke arrangements. For example, some customers may wish to negotiate how and when they would give their notice to terminate their contract.

2.13. We received a number of responses to our March consultation from both large customers and suppliers to large customers who did not want the shape of their contracts restrained in any way. We have taken these comments on board and, at this stage, agree that it would not be appropriate to apply the specific contract terms within SLC 7A to the whole market. Nonetheless, the evidence supports a widening of our protections to include small businesses.

Our proposal

2.14. The starting point for the micro business definition was the definition adopted by the European Commission (the Definition)¹⁷, which is based on staff numbers and turnover/balance sheet (where a micro business has fewer than 10 employees and not more than €2 million turnover/balance sheet). As supported by evidence, it appears that it would be appropriate to extend our protections to small businesses. We have therefore once again based our starting point from the Definition. This sets out that a small business has fewer than 50 employees and a turnover/balance sheet of not more than €10million.

employees (turnover less than £50m).

¹⁵ Federation of Small Businesses also indicate 18% of their small business sample had limited knowledge and understanding of their contracts. Accessed here:

<http://www.fsb.org.uk/policy/assets/fsb0723%20infrastructure%20energy.pdf>

¹⁶ The December 2010 Utilities report from the Forum of Private Business (FPB);

http://www.fpb.org/images/PDFs/2010_FPB_utilities_report.pdf

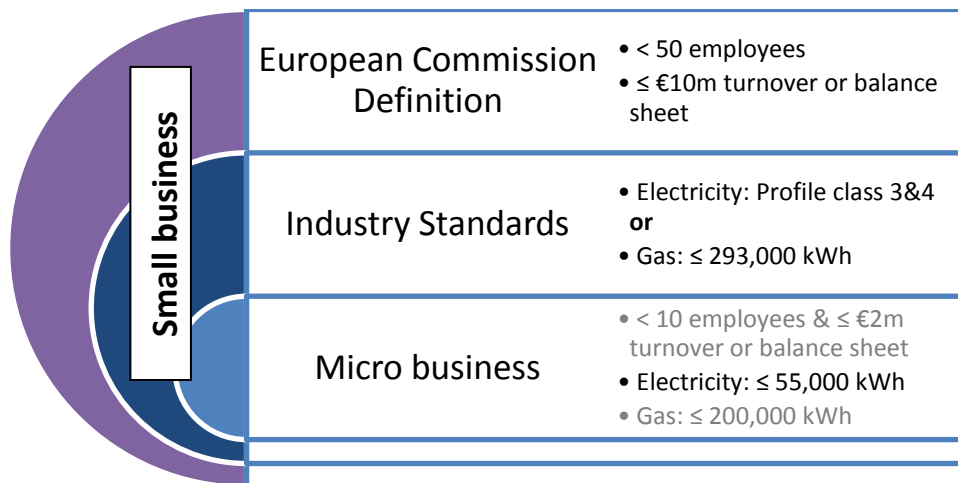
¹⁷ Commission Recommendation [2003/361/EC](#) of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

2.15. More problematic is applying this to a usable definition for both energy customers and suppliers. Smaller business customers may not always be fully aware of their annual energy use. And because the types of industry that could be included in this sector are so varied, energy usage can vary significantly.

2.16. PA Consulting suggests that when refining this definition to make it more applicable for business customers and suppliers, we should also take into account existing industry standards. In many case this can make it easier for both customers and supplier to identify with than annual consumption.

2.17. We are proposing to extend SLC 7A to take into account these issues. We therefore are proposing a new 'Small Business' definition that would incorporate the existing micro business definition (to prevent excluding those already protected), but would be expanded as shown in figure 2.1 below.

Figure 2.1. Proposed small business definition



2.18. Note that to be included in this definition, a business only needs to meet one of the requirements in the bullet points detailed in the figure above in either the small business or micro business definitions above. We believe this definition proposal has a number of benefits, which we set out below.

Consumption brackets more aligned to industry standards

2.19. The current micro business energy usage thresholds do not fit with other industry-wide standards. The small business definition seeks to use existing industry-wide standards. This was a proposal in our RMR responses and should benefit both customers and suppliers, who are likely to have systems in place already to recognise such thresholds.

2.20. Profile classes¹⁸ in electricity are already used by suppliers, and should also be easier for consumers to identify as they can be found on customer bills¹⁹. It was also a suggestion from a supplier in the RMR responses.

2.21. The current electricity component of the micro business definition, namely that the business can use no more than 55,000 kWh per year, accounts for 89.5%²⁰ of the meters in the non-domestic profile classes. As most of these are in Profiles 3 and 4²¹, setting our definition to these profile classes should include most micro businesses (see the draft Impact Assessment in Appendix 9 for more details), but also slightly increase coverage, to 93.5% of the market.

2.22. Similarly, there are standards in the gas sector that determine how often a meter should be read. These current standards are:

- 73,200 to 293,000 kWh per annum, at least annual meter reads required;
- 293,000 to 58,600,000 kWh per annum, at least monthly meter reads required;
- >58,600,000 kWh per annum, daily metering is required.

2.23. There are additional industry standards that deem a supply point to be non-domestic (as opposed to domestic) if it has an annual consumption of over 73,200 kWh. It is categorised as a Large Supply Point if the annual quantity consumed is equal to or greater than 732,000 kWh.

2.24. Moving to the 293,000 kWh monthly read threshold aligns with an industry standard (the boundary for monthly meter reads) whilst also providing a slight increase in coverage. We expect both suppliers and customers to be aware if they have monthly meter reads.

¹⁸ Because only the largest users of electricity traditionally had half-hourly metering in the UK, the concept of Profile classes was developed in the 1990's. This separates different types and amount of usage into 8 groups, or profiles, depending on the pattern of energy use within a 24 hour period. Profile classes 1 and 2 relate to the domestic sector, while profile classes 3 to 8 relate to the non-domestic sector.

¹⁹ A Meter Point Administration Number, or MPAN, is a unique number associated with each meter and usually appears on electricity bills. The MPAN is different from a customer reference number. The full MPAN number will be 21 digits and the first two digits will describe the profile class of the meter. For example, if the first two digits are 03, it will be a Profile class 3 meter.

²⁰ Source: Elexon

²¹ Elexon data shows that 93.2% of class 3 and 4 already meet the micro business electricity definition.

Does not eliminate any current micro businesses

2.25. Moving to electricity profiles only could lead to some businesses that consume no more than 55,000 kWh (and therefore currently captured in our micro business definition) falling out of the definition if they were profile 5 or above, and did not meet the proposed gas and employee/turnover criteria. We estimate that the number of businesses this could affect is likely to be very small. But to remove this possibility any business that is already included within the micro business definition would also be covered by the expanded SLC 7A.

Estimating coverage of the new definition

2.26. We have used available data from industry and government sources to estimate the number of business likely to be covered by SLC 7A if we applied our new small business definition. The draft Impact Assessment in Appendix 9 gives further detail of the analysis. In summary, it is difficult to calculate the exact increase in the number of businesses under the proposed definition. We can estimate a *maximum* increase of 339,280 based on the additional number of local units²² between 10-49 employees. In truth, it may be considerably smaller than this as some of these businesses counted as one unit many be part of a larger multi-site business customer. And some of these businesses may already meet the micro business definition by their gas or electricity consumption.

Additional SLC 7A issues: Automatic rollovers and termination procedures

2.27. When we put in place the SLC 7A licence conditions, there were a number of issues around termination procedures. In particular, there was a lot of discussion around whether or not to allow automatic rollover of contracts²³. In the end, we allowed suppliers to roll over contracts for 12 months. This was mainly because respondents to our Probe consultation were worried that customers would pay even higher rates if they didn't move away at the end of their fixed term, through having to pay deemed or 'out of contract' rates. There were also concerns about the impact on suppliers' costs. But, we said we would keep this under review.

²² Definition from the Office for National Statistics. A Local Unit is defined as an individual site, located in a geographically identifiable place. For example, a company head office would count as one 'Enterprise' as well as one 'Local Unit'. The company's 17 branches throughout the country would also count as Local Units. Alternatively, a single-site company would count as one Enterprise and one Local Unit.

²³ Many non-domestic contracts contain a clause whereby their supplier can automatically extend the customer's fixed term contract for a further fixed term, with new rates. A customer can only prevent this happening if they specifically contact the supplier to say they do not want this to happen. However, if they don't tell the supplier in time, they cannot change their supply until the end of the new fixed term and will have to pay the rollover rates during this time. These rates are often higher than what a customer could obtain if they negotiated a new contract.

2.28. We believe it is time to revisit our decision. A number of respondents to our March RMR consultation called for us to ban the ability of suppliers to roll customers' contracts over for 12 months. They felt that it was better to fall back onto deemed rates, than to be locked into a contract that limited their ability to move supplier freely. Research would seem to support this view²⁴. We have also found in our review of supplier objections activities that many objections to supply transfer were linked to termination procedures²⁵ (we give more details in Chapter 3). But, we need to further explore the consequences of banning rollovers, such as possible price increases. And, of course, as the limitation is set out in SLC 7A, it will only impact on the customers protected by that SLC. This means that while some work can start on this, we will have to have reached a decision on SLC 7A coverage before we can robustly assess further potential changes. So, after this consultation ends and we have made a decision on SLC 7A coverage, we will be reviewing the rollover and termination terms in SLC 7A.

2.29. In the meantime, we are – separate to this RMR work - looking into suppliers' pricing of deemed rates. We are also doing more to publicise to customers the importance of engaging in the market, as we set out in chapter 1.

Conclusion

2.30. We believe our proposal to expand SLC 7A and review termination procedures once the coverage is agreed meets many of the concerns of consumer groups without excessive burden on suppliers or larger business customers. The draft Impact Assessment (appendix 9) in the supplementary appendix goes into more detail of the anticipated effects of our expansion, as well as considering other options. These extra protections may impose some additional costs for suppliers not already extending the current SLC 7A to their SME customers. We don't believe these costs to be prohibitive, but welcome more information in our draft Impact Assessment.

²⁴ 42% of SMEs (including micro) interviewed felt they have recently been 'caught out' by a contract rollover (Forum of Private Business, 2010).

²⁵ In some cases, the difference between the date a customer was seeking to transfer supplier and the date the supplier said they were in contract until was almost a year, which strongly suggests that these may be linked to customers being captured by rollover provisions that they were not fully aware of.

3. Customer transfer blocking - 'Objections'

Chapter Summary

Our previous consultation in March expressed our concern that frequent use of the objections procedure by some suppliers may frustrate businesses that are trying to switch supplier. We have now conducted further research into this area. This chapter summarises our main findings and our proposals to improve the current situation.

Question 8: Do stakeholders agree with the conclusions we have drawn in this chapter?

Question 9: Do stakeholders agree that we do not need to make changes to SLC 14 governing objections to supply transfer for non-domestic suppliers?

Question 10: Do stakeholders believe that we should publish our data relating to supplier objections on a regular basis?

Question 11: Are there other issues with the objections procedure, other than the obligations of the licence condition, which stakeholders consider need to be addressed?

Question 12: Do suppliers who have voluntarily sent data have views on whether the data we currently ask for on a monthly basis needs to change and why?

Introduction

3.1. Customers who search for the best energy deals and switch suppliers to get them are an important driver of competition between energy suppliers. However, we allow suppliers to object to a proposed supplier transfer only in specific circumstances²⁶. We intended this to speed up the process of fixing problems, by customers and/or suppliers not needing to always pursue legal action²⁷. But as we set out in March, we have concerns that this process is not being used as we intended, and that too many customers are needing to spend a lot of time (and sometimes more money than they should) trying to switch supplier. We got strong support from respondents to our consultation to look more closely in this area.

²⁶ For example if a customer's contract allows the supplier to object to them moving away to another supplier if they are still under contract, or in debt.

²⁷ Eg to avoid the need to always have to resort to litigation for debt recovery and breach of contract

The existing licence obligations

3.2. Our licence conditions for non-domestic customer transfer blocking are set out in Standard Licence Condition (SLC) 14. The only permissible reasons for objecting to a request to transfer a Non-domestic supply (SLC 14.2) are relevant contractual agreements²⁸ or transfers initiated in error²⁹. Electricity suppliers are allowed an additional reason for system reasons, namely if the new supplier has not applied for all relevant³⁰ meter points on the same working day.

3.3. SLC 14 also requires that once an objection to a change of supply (CoS) has been given, the supplier must provide the customer with written notice covering three topics:

- (i) that they have made a request to prevent the transfer (14.3(a)),
- (ii) the grounds for the request (14.3(b)), and
- (iii) how the customer may dispute or resolve such grounds (14.3(c)).

Issues and evidence

3.4. Our initial concerns about this area came from three sources. Firstly, the data³¹ we get about the number of objections tells us that there are many more objections than we would expect to see. Most suppliers object to around a quarter, or less, of attempted transfers. However there are a few suppliers that object to most of their customers' attempted transfers (more than 50%). Secondly, we have received direct complaints about the use of objections from or on behalf of businesses. And thirdly, some suppliers have complained to us about the practices of other suppliers. We are concerned because customers could potentially face financial harm and a bad switching experience could negatively impact their perceptions of suppliers and the industry. This could lead to fewer customers wanting to go through the process of switching supplier. And less switching could reduce competitive pressure on the market – which is needed to ensure good outcomes for customers.

3.5. After we announced in March 2011 our intention to look more closely into this area, we issued a formal Information Request to a number of suppliers. These

²⁸ In other words, there must be a contract in place at the time the supply was objected to and must apply at the time of making the objection; and within the contract the circumstances in which the supplier can object to the transfer, such as having debt, must be set out.

²⁹ In Gas, for contracts entered into before 05 January 2004, suppliers can object to a Change of Supply (CoS) if the customer has debt outstanding for more than 28 days, and if the customer is still in contract.

³⁰ For example some meters may have two registers on them, with two related registered numbers. Both numbers would need to be given for the system to allow a transfer, so that two suppliers are not registered to the same physical meter.

³¹ Since April 2010 we have been receiving data on non-domestic suppliers' customer numbers, transfers and objections to transfers in the GB non-domestic energy market. This data is currently voluntarily submitted by companies.

included both incumbent suppliers and new entrants. We chose these suppliers based on their levels of objections and/or objection withdrawals. We also took account of the suppliers against whom we have received complaints.

3.6. We specifically wanted to understand the reasons behind the data and use this knowledge to shape the actions we can take to ensure fewer customers faced delays when they wanted to switch. So we asked for a random sample of their objections³², based on alphabetical selection, on a random day³³ (24 February 2011). We asked for specific details on each objection as well as details of every other objection made by the supplier for the same supply point from three months before and after this day. These details included the full reasons for the objection and the correspondence with the customer. We also asked questions to understand how the process was applied in the supplier's business.

3.7. We received details of 390 objections from 24 February, and an additional 1,309 related objections from the three months before and after this date. Our key findings from this sample data are set out below.

Key findings

The main reasons for objections

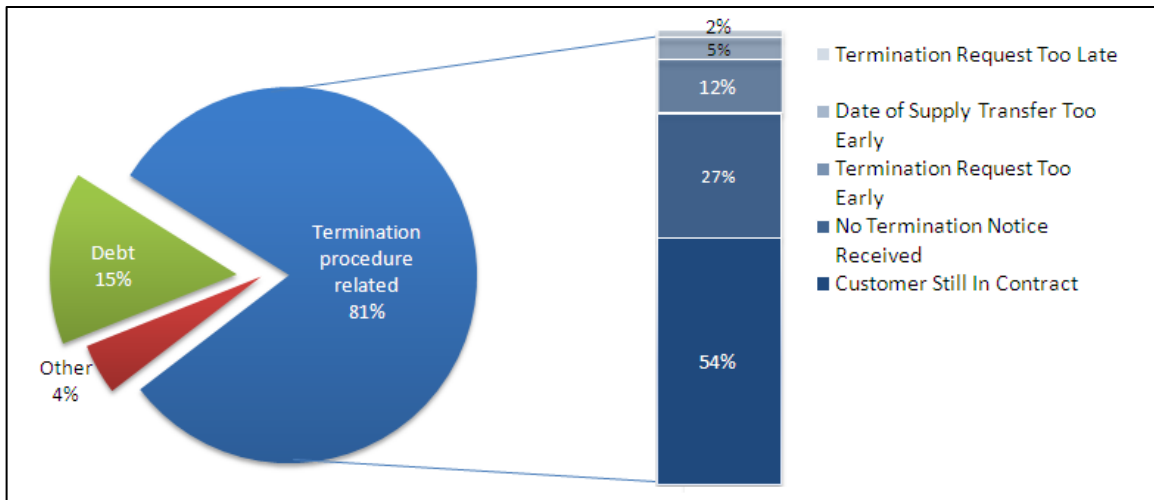
3.8. Figure 3.1 shows that by far the majority of the objections, 81% of our sample³⁴, were related to termination procedures. Within this 'termination procedures' reason group, over half of the customers were still in a contract with the supplier. In 27% of these objections it appears that the supplier had not received a termination notice and 17% were raised because the supplier received the termination request too early or the new supplier tried to take supply before the end of the customer's contract.

³² We asked each of the suppliers for 50 objections per energy type, except when the supplier had lower total proposed transfers. In these cases, they were asked to provide a smaller sample of objections (eg some suppliers were asked to provide a sample size of 50 objections of their electricity CoSs, and 10 objections for their gas CoSs).

³³ If the number of objections made on that day were less than the specified number we asked for, objections made on the following days were included until the sample size was reached.

³⁴ 83% of micro business customers and 68% of larger businesses had objections due to the termination process. (330 (85%) of our sample were micro business customers.)

Figure 3.1: Most objections are termination procedure related



Source: Ofgem, formal information request objections sample data 2011.

3.9. The next main reason (15%) related to contractual debt as specified in the supplier’s contractual terms. The remaining 4% of objections were due to not all related metering points being applied for, erroneous transfers, at the customer’s request or objections made in error.

Multiple objections

3.10. In our sample, 82% of the CoS requests that were objected to on 24 February 2011 had been or were subsequently objected to repeatedly. There were typically between three and five objected applications per customer in our sample, but some customers had up to 15 objections over the six month period we surveyed. It seems to make little difference whether the old supplier is an incumbent energy company, or relatively new provider.

Ineffective communication

3.11. We found that suppliers were telling their customers that they had objected to their proposed CoS within a few days. But in some cases they should have given more information than that. For example, a letter was sent to a customer telling them that their proposed transfer had been objected to but the only additional information they were given were contact details in case the customer wanted to talk about their contract. Compare this against the communications of another supplier that gave customers more useful information: If the objection reason was that the customer was still in contract with them, they clearly stated the contract end date and by when customers had to give 30 days written notice.

3.12. In some cases it also appeared that there were multiple reasons for the objection, but only one was given to the customer in the first instance. It was only when the customer applied to transfer again, having resolved the previous

objection reason (eg debt), that they were objected to again and then informed of another reason (eg still under contract).

3.13. There are other instances where suppliers do not appear to make all efforts to communicate with the customer and/or the new supplier to enable a swift CoS. For example, one electricity supply point in our sample had 13 objections against it over the 6 month period. The first 12 objections were because the new supplier had not applied for all the related supply points each time. The last objection was because the customer had built up debt on their account. But, the Master Registration Agreement (MRA)³⁵, allows the outgoing supplier to directly contact the new supplier to tell them about metering points related to the meter point they are trying to transfer. A single phone call could have potentially resolved this objection after the first instance.

Withdrawal of objections

3.14. We noted in our March RMR that we were also concerned with some of the statistics around withdrawals. Built into the current CoS process is a window³⁶ where a supplier can resolve their objections and allow the customer to transfer supply on the date they originally requested. Our data showed that some suppliers had significantly higher withdrawal rates than others. This could mean that they are more proactive than other suppliers and resolve the problems quickly through either contacting their customer or the new supplier³⁷. But we were concerned because it could also mean that they were objecting when they did not have a valid reason, and withdrew when the customer questioned their action.

3.15. But the sample data that we investigated did not show high levels of withdrawals. Only 15 (less than 4%) of the objections in our sample were withdrawn in the resolution period, with 40% of these withdrawn when debt was paid.

Remedies

3.16. The findings that we have set out above have given us a lot of insight into why we are seeing so many objections. For one thing, they support the view that we should be taking a fresh look at termination procedures and auto-rollovers (see Chapter 4). But they also raise compliance concerns with some parts of the relevant licence condition, SLC 14.

³⁵ The MRA is an industry code for electricity that sets out the process of supply transfers.

³⁶ Five days for electricity, seven days for gas

³⁷ Industry codes such as the MRA and I&C Code of Practice for supply point transfer allow for suppliers to communicate and resolve the reasons for objections such as metering points that are not applied for, early application dates, supply transfer dates before the end of a fixed term contract.

Enforcement and regulatory action

3.17. SLC 14.3(a) stipulates that the supplier must provide the customer with written notice that states that the supplier has made a request to prevent the transfer. Generally all suppliers in our sample complied.

3.18. However, as described in the previous section, in some cases not all the reasons for the objections were given to the customer when the objection was lodged. This appears to be a potential breach of SLC 14.3(b). And then, while some suppliers were telling their customer enough information to help them resolve their objections, others were not. This appears to be a potential breach of SLC 14.3(c). The extent of multiple objections is also a concern.

3.19. As a result, we are actively considering a range of enforcement and regulatory action. We set out in our Enforcement Guidelines³⁸ our criteria for considering whether or not to open an investigation. These include: if there are sufficient grounds to suspect that there has been a breach³⁹; how serious the breach is, including if any steps have been taken to resolve the situation; the effect, including any deterrent effect, of an investigation; and the resources that will be required to investigate the matter.

Open letter on SLC 14

3.20. Suppliers should be fully capable of understanding the requirements of SLC 14. However, we have decided that it would be helpful to issue an open letter to not only remind suppliers of their obligations but to also highlight what we consider to be good practice. We attach this open letter as Appendix 3. The key areas of SLC 14 that we set out can be grouped into the following categories:

- a) General prohibition and allowable reasons for objections
- b) Customer notification that the supplier prevented the transfer
- c) Customer notification of the grounds of the objection
- d) Customer notification of what the customer can do to dispute / resolve the objection

³⁸

<http://www.ofgem.gov.uk/About%20us/enforcement/Documents1/Enforcement%20Guidelines%20post%20consultation.pdf>, Chapter 3.

³⁹ For the avoidance of doubt, the fact that Ofgem may launch an investigation should not in any way be taken as any final determination on breach of a licence condition. An investigation may result in no action being deemed necessary.

3.21. We would expect to see suppliers state all reasons for their objection that are applicable at the time of objecting to the proposed transfer. We also encourage suppliers to include other account information such as all related meter points, contract end dates, notice periods, etc in the written notice to support the customer in resolving the objection.

3.22. We also note that the complaints we have received about the objection process have included other practices, including allegations of wrongfully recording a change of tenancy and recurring 'win-back' activity, where a supplier encourages their customers to sign up with them again after the customer has sent in a termination notice and already signed a contract with a new supplier. This open letter will not be dealing with those issues as we are considering those matters further. The open letter will therefore focus on issues around our existing licence condition.

Increased monitoring

3.23. We intend to monitor whether or not our actions reduce the number of objections we are seeing. We will be relying on our new statutory powers to facilitate our monitoring duties under the Third Package to formally request that all non-domestic suppliers submit full information on customer numbers, attempted transfers and objections. We may make use of statutory powers to publish this data if we consider it to be in the interest of customers.

3.24. We will be contacting suppliers over the next few months to finalise the format of the data and how often suppliers will have to send it to us. In considering this, we will look at the usefulness of the existing data format and makes changes where we feel there is not enough clarity.

4. Third party intermediaries

Chapter Summary

Our March consultation detailed our considerations for improving the sales and marketing activities within the non-domestic market. Here we present a three-pronged approach to increase the transparency of non-domestic sales activities, including by TPIS, whilst better addressing misselling.

Question 13: Do stakeholders agree that the introduction of a new supply licence condition focussed on sales activities is a suitable method to prevent harmful sales and marketing activities in the non-domestic sector?

Question 14: Do stakeholders agree that this licence condition is necessary if Ofgem decides not to proceed with its Standards of Conduct proposals?

Question 15: Do stakeholders consider the introduction of an accreditation scheme for TPI Codes of Practice will reduce harmful TPI activities across the whole market?

Question 16: What do stakeholders consider to be key criteria for an accreditation scheme for TPI Codes of Practice?

Question 17: Do stakeholders believe it is necessary for TPIS to disclose their actual fee, or would making clear the fact that the customer is paying a fee for their services be sufficient?

Introduction

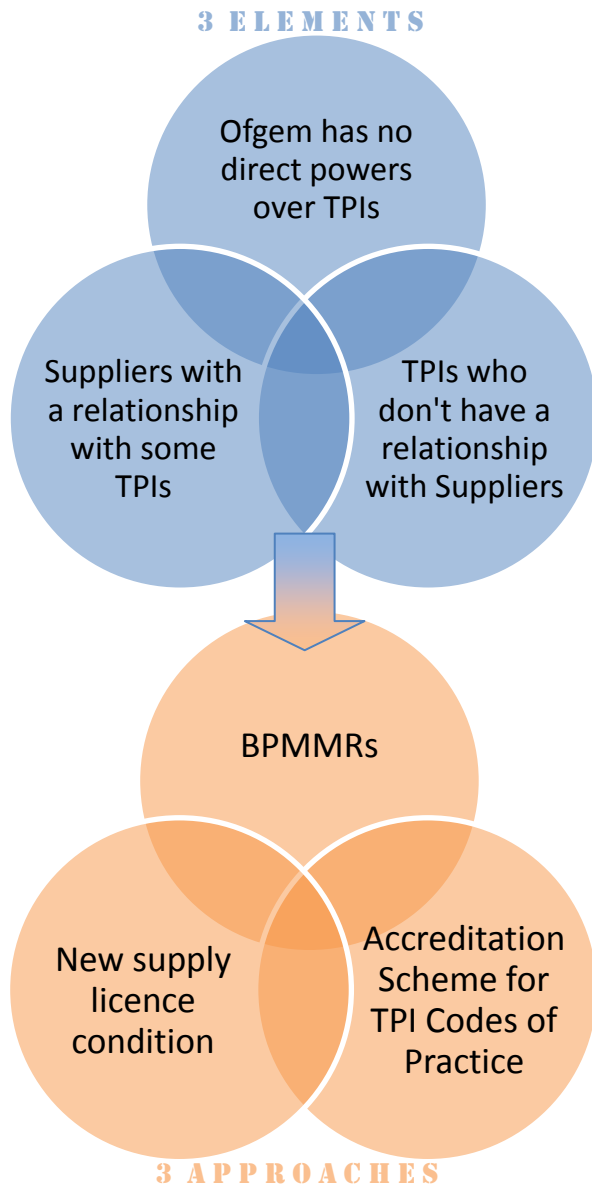
4.1. Respondents to our March 2011 RMR consultation agreed that we should be focusing our attention on the behaviour of third party intermediaries (TPIS) in the non-domestic energy market. In this context TPIS are typically energy agents or brokers that help non-domestic consumers compare alternative energy deals across the market. Our 2008 Probe raised concerns about business customer problems with some TPIS. This included being given misleading information when they signed up to a new contract, and sometimes very little information about who they represented and how they were being paid. The March respondents gave us the same message.

4.2. This concerns us, together with some recent TPI misselling cases we had no powers to deal with and the lack of wide-spread self regulation in the TPI market⁴⁰. TPIS have a significant impact in the business energy market. Many independent or new entrant suppliers use them almost exclusively to reach new customers. And they help many business customers find the best deal: around two-thirds of major energy users and just fewer than 14% of smaller businesses

⁴⁰ We are only aware of one association that followed our suggestions in the Probe that TPIS should set up robust self-regulation, with input from the Office of Fair Trading. However, the majority of TPIS are not signed up to this code. We do accept that many TPIS have set out their own standards of service that they work towards.

use them⁴¹. So we believe we need to take actions before a bad perception of the TPI markets really harms competition in the non-domestic market, and as a consequence, makes customers worse off. We are interested in your views on our proposals.

Our proposals



4.3. There were three key elements of the TPI market that shaped our thinking on the best way forward.

a. The contractual relationship suppliers have with TPIs varies. Some suppliers put certain standards in their contracts, similar to our Standards of Conduct (SOCs), and monitor performance closely. Others don't;

b. TPIs do not always contract with suppliers. They may get paid by the customer directly;

c. Ofgem doesn't have powers over non-domestic TPIs for business to business activity. The relevant powers are the Business Protection from Misleading Marketing Regulations (BPMMR)⁴². These currently sit with the Office of Fair Trading (OFT) and Trading Standards Services.

4.4. These three points mean that a licence condition on suppliers, while useful in some situations, would not be sufficient by itself. And if we found evidence of misselling by a non-domestic TPI we could not take action against them directly. After considering a number of options (see later) we have

⁴¹ Data from Datamonitor's 2011 B2B Energy Consumer Survey, for electricity and gas combined.

⁴² The Business Protection from Misleading Marketing Regulations 2008. Available from: http://www.legislation.gov.uk/ukdsi/2008/9780110811475/pdfs/ukdsi_9780110811475_en.pdf

developed a three-pronged approach:

- a. a new standard licence condition (SLC) on non-domestic suppliers governing the sales and marketing activities of both the supplier and their representative (and/or new Standards of Conduct, see Chapter 5);
- b. an Accreditation Scheme for TPI Codes of Practice (CoP);
- c. we have asked the Department for Business Innovation and Skills (BIS) for powers to enforce the BPMMRs so that Ofgem can take enforcement action directly against non-domestic TPIs.

4.5. The aim of our proposals is to reduce the harm to consumers and energy supply competition caused by the actions of some TPIs and to encourage business customers to explore their options. It is our view that this three-pronged approach is the most suitable way to achieve those goals, given the circumstances. We have set out more detail on each of these below.

New SLC for non-domestic sales and marketing activities

4.6. Unlike in the domestic sector, there is not⁴³ a sales and marketing supply licence condition for non-domestic suppliers. The possibility of introducing a new licence condition to regulate the relationship between suppliers and TPIs was made clear in the March RMR. We are now minded to do this⁴⁴. Appendix 4 sets out our draft licence condition. This does not require suppliers to have contracts with all TPIs. But where they have any relationship with a TPI (eg on the basis of commission payments), that TPI will be a Representative⁴⁵ and the supplier will need to take all reasonable steps to ensure that both their activities and the activities of the TPI are transparent, not misleading and that the customer is given accurate information. Some suppliers do a lot of this already and we would encourage them to continue. However, where they do not ensure these standards, customers could suffer through being put onto deals that are not in their best interest. And given the fact that most non-domestic contracts are for a fixed term⁴⁶ and do not have a 'cooling-off' period during which a customer can change their mind, it is often difficult to remedy their problem in the short term – which may extend the amount of harm they face.

⁴³ SLC 7A does require that suppliers give clear information about contracts to micro business customers, for example the Principal Terms of a contract must be made clear up-front and must be sent to the customer within 10 days. However, this does not cover the breadth of sales and marketing activities and only applies to micro business customers (at present).

⁴⁴ See chapter 5, which sets out our proposals to make revised Standards of Conduct binding. If this is the case, this licence condition may not be necessary.

⁴⁵ SLC 1 of the supply licence defines "Representative" as "...any person directly or indirectly authorised to represent the licensee in its dealings with Customers".

⁴⁶ Datamonitor's 2011 B2B Energy Consumer Survey shows fixed contract lengths between 1-2 years are the most frequent among non-domestic consumers. Based on an average figure for gas and electricity (power), 38% of SME and 41% of MEU consumers have contracts of this length.

4.7. The concepts incorporated within the licence condition will give suppliers some flexibility as to the steps they take. As a minimum we would expect that where the supplier and TPI have a relationship⁴⁷, they will have to ensure that:

- a. appropriate arrangements will be made to allow the customer to have transparent dealings with a TPI. In practice this may see a customer being made aware of which suppliers the TPIs services cover (eg one supplier or the complete non-domestic market);
- b. that there are arrangements to provide the customer with transparency relating to additional fees that the TPI may charge them. This could see TPIs disclosing to customers whether or not a fee has been paid for their services;
- c. the TPI will record and retain the full telephone conversation with the customer⁴⁸. Currently most suppliers require the sales script of their deal to be recorded to verify that the TPI has given the customer all the relevant information about the contract. However, in some of the misselling cases we have seen, the customer reported having been misled early on in the conversation, which is often not recorded. We propose the entire conversation is recorded and retained, to allow any potential enforcement activities to be conducted more efficiently. To prevent competition concerns with suppliers hearing their competitors' offers, we would want these conversations to be retained by the TPIs⁴⁹ for at least the period of the contract and given to the relevant authorities in the event of an investigation.

4.8. We believe that through setting this minimum standard, all suppliers' contracts with TPIs will have clauses ensuring that consumers are fully aware of all relevant information before making a decision. This should also mean that there is better evidence of any poor practices so that they can be proven and enforced against⁵⁰. This should help to improve the overall perception of TPIs in the market and encourage customers to make use of their expertise in finding the best deal. We also believe that this will help those companies – suppliers and TPIs – that are already striving to do this. We set out draft Impact Assessment of this proposal in our supplementary appendices, appendix 10.

⁴⁷ ie are a Representative for the purpose of the SLCs.

⁴⁸ Face to face sales activities would be covered by the broader requirements of the Standards of Conduct, if the proposals set out in chapter 5 are adopted.

⁴⁹ We have been given some evidence from a TPI who has looked into doing this already. The figure quoted for the set up of telephone recording equipment and services for a four person office was £600 plus VAT. They did not feel that it would be unduly onerous.

⁵⁰ This may mean enforcement action by Ofgem for breach of licence conditions or potentially providing information to the OFT/Trading Standards for them to consider for enforcement action under BPMMRs (or Ofgem if we are given the powers to enforce the BPMMRs).

4.9. Chapter 5 discusses our proposals for new SOCs. In the event that those proposals are implemented, we welcome views on whether the proposed licence condition would be required⁵¹.

Accreditation scheme for TPI Codes of Practice

4.10. This proposal is new – it was not raised as an option in March. It has been developed to address certain issues raised both in that document and in subsequent developments since then. Since we flagged our interest and concerns with TPis, a number of groups have contacted us about their intention to operate a Code of Practice (CoP). This has included both suppliers and TPis themselves. At the same time, a TPI association with an established CoP in the market has sought ways to include non-members in their Code.

4.11. We welcome initiatives to ensure best practice is followed. However, we have concerns that CoPs that do not have certain key aspects, such as processes to monitor and enforce against signatories that fail to abide by the principles in the Code, may have little impact on customers or could even potentially mislead customers about their credibility.

4.12. The introduction of a CoP accreditation scheme should reduce these risks. It works with the existing market, and so should not detract from steps towards self-regulation which have already been made. It should also foster improvements regardless of the contractual relationship between TPI and supplier.

4.13. To be clear, our intended approach is not to establish our own CoP, but to look at Codes of Practice brought to us and consider whether they include the elements that we consider are necessary. We would award our quality mark if they did. If we didn't accredit the Code, we would set out the elements that would need to be included if they wanted to re-apply. Once the CoP has been awarded a quality mark, its signatories can officially identify themselves as members of an Ofgem approved code. We intend that the approved codes will have measures to ensure self-regulation, meaning we will monitor the codes themselves and not individual signatory compliance.

4.14. We would like to meet with all relevant stakeholders, including TPis, suppliers and business consumer groups, to jointly discuss the core elements that would be required. We have set out our starting views in draft criteria in appendix 5. In summary, we would like codes to cover various aspects of TPI behaviour relating to the clarity and transparency of information provided to customers, similar to the elements we set out as necessary for suppliers to ensure compliance under the proposal licence condition in paragraph 4.7 (including the fact the customer is paying commission, full telephone recordings, etc). We would also expect to see provisions to handle complaints against signatories and enforcement

⁵¹ See Chapter 5 for more information. The need for this licence condition may depend on if and how we implement our Standards of Conduct proposals, who they cover, and what they are.

procedures for non-compliance. Criteria such as these will allow us to take a 'hands off' approach whilst facilitating market improvement.

4.15. This will also complement the introduction of a new sales SLC given that:

- approximately half⁵² of the non-domestic suppliers appear to have contracts with TPIs that they deal with. Introducing an accreditation scheme could positively impact on customer confidence in any TPI signed up to an accredited CoP, regardless of whether or not they have a relationship with suppliers. It therefore potentially covers TPIs who are outside this area of direct regulation created by a new SLC;
- it seeks to minimise unintended consequences, such as inadvertently encouraging suppliers to not contract with TPIs and force TPIs to move away from supplier sales agent model to a customer sales agent model⁵³

Powers to enforce the BPMMR

4.16. The above two proposals also allow more evidence to be gathered to be able to take enforcement action against any misselling in the business sector, by both suppliers and TPIs. But Ofgem cannot at this stage take action against non-domestic TPIs. If we were given the power to enforce the BPMMRs, we could. We hope that this will have the effect of reducing the occurrence of poor practices and thereby increasing consumer confidence in the market. So, we have already asked BIS to consider conferring on us powers to enforce the BPMMRs, alongside OFT and Trading Standards Services.

Alternative approaches and impacts

4.17. The baseline approach would be to maintain the current regulatory conditions and take no action. We do not feel that this would be appropriate as we had highlighted concerns about TPI activities as far back as October 2008 (the Probe). At the time, we felt that a proportionate action was recommended that TPIs seek guidance from the OFT when developing their own CoPs and to promote these to encourage industry best practice. But given there has not been widespread action on this and that there is an apparent continuation of bad practices by some TPIs, we feel that the current regulatory framework does not deliver the best outcome for energy customers.

⁵² Based on supplier responses where we could identify whether contracts were in place with the TPIs they had dealings with. It is worth noting that this is not the percentage figure of TPIs with contracts with suppliers as we do not know the total number of TPIs.

⁵³ The supplier sales agent model sees TPIs directly contracted to the supplier and operating on behalf of the supplier to gain customers. The customer sales agent model has the customer contracted with the TPI, with the TPI acting as the customer's agent. In the current market, TPIs choose which model they prefer to follow.

4.18. We considered several alternative approaches. We have set these out in the table 4.1, along with our main reasons for rejecting them in favour of our proposed three-pronged approach.

Table 4.1. Options we rejected for TPI regulation

Options	Reason for rejection
1. Seek powers to licence individual TPIs that work in the energy sector, or set up our own Code of Practice.	This would require a significant extension of our existing powers, and would be very onerous given the number and variation of TPIs, who frequently cover other sectors as well as energy. We did not feel this was a proportionate action at this stage.
2. A licence condition with specific requirements for the supplier to make sure the TPI records telephone calls, eg where contracts were in place between a supplier and TPI.	The proposed principles-based licence condition was more in keeping with our existing licence condition for domestic suppliers and also aligned to our developing thinking on Standard of Conduct proposals (see later).
3. Requiring suppliers to have a contract in place with all TPIs they deal with.	We did not feel this was a proportionate intervention at this stage. This would be onerous to set up, and potentially difficult to ensure in practice (eg the supplier may not always be aware when initially talking to a person about prices that they are a TPI working on behalf of a customer).
4. Requiring suppliers to only contract with TPIs that subscribed to a Code of Practice that has the Ofgem quality mark.	It would be more appropriate to consider this option once our accreditation process is more established. There are also practical costs and difficulties, such as those set out in option 3 above.

Conclusion

4.19. It is our view that the three-pronged approach we have proposed will positively impact the market in a way that could not be achieved by one approach alone. It addresses our highlighted concerns whilst building on the self-regulatory actions that have already started. Given our concerns relating to some TPI sales activities and the limited amount of direct regulation in this market sector, we believe that this will have significant benefits for non-domestic consumers and energy market competition.

5. Standards of Conduct

Chapter Summary

Feedback from consumers concerning their views of energy supplier activity, current supplier practices and the impact these have on consumer engagement has caused us to reconsider the ability of our current Standards of Conduct (SOCs) to promote best practice and transparency. We propose to introduce a revised set of SOCs to make clear what standards are expected of suppliers. We propose that the SOCs should appear in a new licence condition and be enforceable.

Question 18: Do you consider the revised SOCs will help to achieve our objectives?

Question 19: Do you agree that the SOCs should be in a licence condition and enforceable?

Question 20: Do you agree the revised SOCs should apply to all interactions between suppliers and consumers?

Question 21: Do you have information regarding potential costs this may impose on suppliers?

Question 22: Do you think these proposals should apply to the whole non-domestic market, or only a sub-set of it, eg small businesses?

Question 22: Given your answers to the questions above, do we still need the licence changes proposed elsewhere in this document?

Introduction

5.1. To encourage consumers to engage with the market – interact with their supplier, look for better products, switch supplier when they find the best deal – it is important for them to have trust in energy suppliers and their representatives. But research⁵⁴ and feedback from business (including large business customers) often shows low levels of trust. Lack of trust could be contributing to the low levels of consumer engagement we see in the market, with the effect that competitive pressures on suppliers are not as strong as they could be.




5.2. The existing SOCs were introduced as part of the Probe. Their policy intent was to help the market work better through promoting fair and transparent

⁵⁴ Research with business customers conducted for us by Harris Interactive showed an overarching air of cynicism surrounding the energy market as a whole. See at: <http://www.ofgem.gov.uk/Sustainability/Cp/CF/Documents1/SME%20Attitudes%20%20Behaviours%20Report.pdf>

exchanges between suppliers and consumers. The existing SOC's apply to domestic and small business customers. They focus mainly on the interactions when customers are making or have made a decision about an energy deal. But we have found that trust in suppliers and the market has not significantly improved. This perception of the market is impacted upon by all customers' interactions with suppliers. So we think there may be at least two reasons why our existing SOC's have not been as effective as we would have wished: first, they may not cover what they need to and, second, even where they do, we cannot hold suppliers accountable if they do not achieve these standards.

5.3. For these reasons we are proposing to introduce the new SOC's in a licence condition that we can enforce. Our proposed SOC's are in Figure 5.1 below and would require that the licensee shall take all reasonable steps to ensure that⁵⁵:

Figure 5.1 Proposed new Standards of Conduct

	<p>the licensee, its staff and any Representative behave and carry out any actions in a fair, honest, transparent, appropriate and professional manner;</p>
	<p>the licensee, its staff and any Representative provide information (whether in Writing or orally) to a Customer which:</p> <ul style="list-style-type: none"> (i) is complete, accurate and not misleading (in terms of the information provided or omitted); (ii) is communicated (and, if provided in Writing, drafted) in plain and intelligible language; (iii) relates to products or services which are appropriate to the Customer to whom it is directed; and (iv) is otherwise fair both in terms of its content and in terms of how it is presented (with more important information being given appropriate prominence);
	<p>the licensee, its staff and any Representative:</p> <ul style="list-style-type: none"> (i) make it easy for a Customer to contact the licensee; (ii) act promptly and courteously to put things right when the licensee, its staff and any Representative make a mistake; and (iii) otherwise ensure that customer service arrangements and processes are complete, thorough, fit for purpose and transparent.

⁵⁵ Note that this formulation assumes a binding licence obligation. For more information on this option see the draft licence condition 1A in appendix 6.

The Standards

5.4. SOCs could play a key role in helping to improve areas where concerns around consumer and supplier interactions exist. With our existing SOCs we took a 'lighter touch' approach. They set out how we expect suppliers to treat consumers in specific interactions such as sales and marketing.

5.5. The existing SOCs are:

- [The supplier] must not sell a customer a product or service that he or she does not fully understand or that is inappropriate for their needs and circumstances;
- [The supplier] must not change anything material about a customer's product or service without clearly explaining to him or her why;
- [The supplier] must not prevent a customer from switching product or supplier without good reason;
- [The supplier] must not offer products that are unnecessarily complex or confusing; and
- [The supplier] must make it easy for customers to contact [it] and act promptly and courteously to put things right when [it] make[s] a mistake.

5.6. But we now believe that we need to broaden our SOCs out in order to achieve our original policy aims. Research and other consumer feedback has noted issues relating to interactions with suppliers beyond the scope of the existing SOCs, for example billing or poor customer service. Without a broad enough scope, we are concerned the SOCs will not be able to do enough to drive forward improvements that would increase levels of consumer trust and engagement.

5.7. We have reviewed the approaches used in codes and standards in other sectors and other countries⁵⁶. This research emphasised both the potential benefits of using principles as a regulatory tool, and the importance of ensuring such principles are directly enforceable.

5.8. With this in mind, we have recast the existing SOCs as wider-reaching, high level principles, using the spirit of existing standards as a foundation. (They are set out in figure 5.1 above.) We have aimed to enhance their coverage without removing their focus on consumer interactions.

⁵⁶ Including the FSA and Ofcom, the Commission for Energy Regulation (CER) in Ireland, and Australian state energy regulators.

5.9. The proposal to adopt high level principles builds on a 'principles-based' approach to regulation we adopted as part of the Probe. The flexibility this gives suppliers to meet the standards imposes the minimum burden required in order to secure the desired level of treatment for consumers and is therefore proportionate. This supports the Better Regulation principles we adhere to. It also represents a further move towards a principles-based approach. For example, similar provisions already exist as "objectives" within the Domestic Marketing Licence Condition (SLC 25), and our proposals expand this approach to other areas.

5.10. As well as providing a broad level of protection for customers and addressing matters not already covered, the SOCs could enable us to limit the need for more prescriptive measures in the future. This approach would not tie suppliers to a particular way of meeting our requirements, and would allow suppliers the flexibility to adapt their approach over time. This is an important feature given the technological, and market, innovations that may result from the roll-out of Smart Metering, for example.

Scope of application

Activities

5.11. In keeping with the drafting and objectives of the revised SOCs, our intention is to expand coverage of the SOCs and apply these provisions to all supplier interactions with consumers. These may include, but are not limited to, the following activities: billing; meter reading; any written or oral communications with Customers; any sales and marketing activities; the exercise of Rights of Entry; the exercise of disconnection powers; and debt recovery.

5.12. However, by focusing only on interactions between suppliers and consumers, the proposed SOCs go no further than we consider necessary. For example, we are not looking to extend the scope of SOCs to cover interactions between Licensees that do not clearly impact consumers, or interactions between Licensees and the regulator, as seen with principles or codes of conduct within other industries. By limiting the scope of application of the SOCs to interactions between consumers and suppliers (and their representatives), we have targeted the proposal towards the harm we have found, an important part of our Better Regulation aims.

All non-domestic versus small businesses only

5.13. The proposals we have set out in previous chapters of this document seek to help resolve issues that affect both small businesses (the informational requirements and termination procedures in SLC 7A) and larger businesses (objections and TPIs). Large business customers have also approached us to discuss these and other issues that are negatively impacting on their businesses, including how issues around back billing are dealt with and rates and conditions for deemed contracts.

5.14. This suggests that standards that seek to improve supplier and consumer interactions would benefit all consumers, including all non-domestic consumers. This view would expand the scope of the SOCs, in that they currently are only aimed towards small business consumers. However, given the above, our proposal is that they should cover the whole market. As we set out in our impact assessment in appendix 11, we do not currently believe that this would be unduly onerous on suppliers, given that our proposed SOCs are aimed at setting standards that are fair and reasonable. We also believe that the flexible nature of the conditions would allow some flexibility in larger businesses contracts to continue⁵⁷. We would particularly like to hear views on this proposal.

The legal framework

5.15. The current SOCs are not directly enforceable; however, we may have regard to them when considering our enforcement priorities and assessing the extent to which supplier conduct has harmed consumers. This also means we may only refer to them in relation to existing licence conditions or statutory requirements.

5.16. As noted earlier, the fact that the current SOCs are not directly enforceable is likely to have limited their effectiveness. Given that they have not had the desired impact in their current form, we believe that without a mechanism to ensure supplier adherence, the SOCs, even in their revamped format, will not deliver the intended improvements for consumers and the market. We are not alone in this view: a range of other regulators, including the FSA, Ofcom and CER, have given legal force to codes of conduct or similar measures.

Our Proposal

Option 1 ("Legally binding via an overarching licence condition")

5.17. With this option we would implement our revised SOCs, which incorporate high level principles, and apply to all interactions between suppliers and consumers. The revised SOCs would be introduced as a binding and enforceable licence condition. We would monitor suppliers' adherence to the SOCs, and would investigate and take enforcement action, where appropriate. This would introduce a legal obligation for suppliers to adhere to the SOCs.

⁵⁷ In our proposal to expand the scope of SLC 7A we noted that we, and a number of stakeholders, did not believe it was appropriate to apply the specific terms within the SLC 7A to large business as they would be too restrictive in a part of the market where customers are able to, for example, tender for energy contracts with their specific terms attached. However, in relation to our proposals for SOCs, and particularly given how we have written our proposed new standards, we don't think this applies. The conditions still allow flexibility, while ensuring that expectations around service, etc., are met.

5.18. We consider that the revised SOCs are drafted in a way which enables suppliers to understand what types of activity will meet the principles of the Standards. To clarify our interpretation of this licence condition we may issue Guidance or other material, if appropriate. We will in due course also consider what compliance and enforcement processes may be the most appropriate when enforcing principles-based requirements. When determining whether or not to pursue enforcement action we would consider the level of consumer harm and impact on competition, as is the case with existing licence conditions.

5.19. Implementing this proposal potentially impacts most on non-domestic suppliers. The licence conditions we enforce in the non-domestic market are more limited in scope than for the domestic market. However, as previously set out, we do not consider the requirements to be unduly onerous in that they seek to ensure actions that are fair and reasonable. In addition, we expect their introduction to improve consumer confidence in the market, which is then expected to improve opportunities for suppliers to compete and grow.

Other options considered

5.20. We do not consider a “do nothing” option would be viable. In our view, and based on our research, the coverage of the existing SOCs is too limited (both in terms of behaviours captured and scope of application). In their current form, we do not consider relying on the existing SOCs would provide the best mechanism for increasing consumer trust in suppliers, and engagement in the market. But we do set out two other, non-binding options which we have considered.

Option 2 (“Non-binding + industry commitment”)

5.21. Under this option, implementation of the new SOCs would remain voluntary. It would, however, be supported by a public commitment from suppliers to adhere to them. Suppliers’ performance against this commitment would be monitored by Ofgem on a regular basis (see in appendix 11 the section in our impact assessment on Post Implementation Review for details).

5.22. A public commitment would give suppliers a greater reputational incentive to adhere to the SOCs than they would without such undertakings. Although this is more likely to drive the improvements that we are looking for than other approaches (“do nothing” or Option 3), it still raises questions about the degree to which this will promote supplier adherence.

Option 3 (“Non-binding”)

5.23. Under this option, the legal status of the new SOCs would remain unchanged and implementation would be voluntary. We would continue to have regard to adherence to the SOCs in determining enforcement priorities, but could not enforce them directly.

5.24. Although the nature and scope of the SOC's would be improved, we would continue to have significant concerns about supplier adherence, and their limited incentive to do so.

Interactions with our other non-domestic proposals

Marketing licence condition for non-domestic suppliers

5.25. The marketing licence condition was deliberately written to give suppliers some flexibility in how they apply it. It follows a similar format to our Domestic marketing licence condition (SLC 25). And our revised SOC's take a similar approach. In particular, our second SOC is very similar to our proposed marketing licence condition. It is possible, therefore, that if we were to implement our recommended approach to enshrine our revised SOC's into our licence condition, to cover both domestic and non-domestic suppliers, we may not need to insert the new licence condition governing sales activities with non-domestic customers. But if the proposed SOC's themselves were amended or if they only applied to interactions with small business consumers, then this licence condition may still be needed. We welcome further views in this regard.

SLC 7A expansion and review of termination procedures

5.26. The SOC's will be capable of addressing, amongst other things, unfair or misleading behaviour towards customers. So we would expect them to capture some of the general behaviour that resulted in Ofgem putting SLC 7A in place originally. We also expect that the SOC's would cover unfair practices in respect of notice periods for terminating contracts. However, we consider that there is still a need to retain the prescriptive requirements of SLC 7A to deal with certain particular issues that the condition was designed to address. This includes conditions relating to notice periods and other matters connected to the giving of notice, eg to ensure that customers are able to give notice to opt out of rollovers in a particular way or at a particular time. We are therefore of the view that we would continue with the proposals in this document regarding the expansion of SLC 7A and the review of termination procedures, regardless of whether or not we implement the SOC proposals and regardless of their scope.

Objections

5.27. It is possible that the open letter we have issued on objections may need to be recast if the SOC's were implemented. Our initial view is that the good practice issues we highlight in the letter would be caught by the SOC's. It is also possible that other issues related to Objections but not expressly captured in our licences (see chapter 3) at the moment may also be captured by this proposal.

Conclusions

5.28. Our key objectives with the new SOC's are to improve the quality of consumer interactions with suppliers and their representatives, help promote

greater levels of trust in the energy industry, encourage greater levels of consumer engagement and promote effective competition. In putting forward these proposals we have also considered our principal statutory objective, which is to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems.

5.29. We have also been particularly mindful of our new regulatory objective under the gas and electricity directives of:

“ensuring that customers benefit through the efficient functioning of their national market, promoting effective competition and helping to ensure consumer protection”,

5.30. In our view the proposed SOCs are proportionate. We note that given current practice in the market, suppliers are likely to need to make changes to their systems and/or processes to make sure their actions are in line with the SOCs. However, we consider these provisions are consistent with what we would expect to see in a competitive market and are therefore reasonable and should not be unduly onerous. Further consideration of the impact of this proposal is outlined in the attached draft Impact Assessment (see our supplementary appendices, chapter 11).

5.31. We are concerned that alternative approaches, such as Options 2 and 3, that rely on reputational incentives may not deliver our intended outcomes. This concern is based on experience to date, namely that the non-binding SOCs introduced following the Probe have not had the intended impact on consumer trust or engagement. We therefore believe that this approach appears to offer the best way to ensure that our key objectives are met.

6. Next Steps

6.1. We believe that the proposals set out in this document are the best way to bring benefits to business consumers based on the issues we set out. We have included licence drafting in our appendices to clarify how we plan to implement these measures. We have written an open letter to remind suppliers of their licence obligations relating to objections to supply transfer. And we have set out our initial views on the important elements we think we would require before we accredit a TPI Code of Practice. We invite responses to our minded to proposals by **15 February 2012**. We are particularly interested in specific evidence on the costs and benefits of our proposals.

6.2. During this consultation period, we would welcome discussions with stakeholders. If we implement our proposals, we hope to work constructively with non-domestic energy suppliers to put these arrangements in place as soon as possible. Some of these remedies will take time to implement formally, but there is nothing stopping suppliers from moving sooner where they can – and we would encourage that.

6.3. We also intend to host a TPI forum where we will discuss our Accreditation option with relevant parties. We would like this to include TPI representatives, suppliers and business customer representatives. It is likely that this forum will take place in late January. We will publish on our website the date and place of this meeting and contact stakeholders directly, where possible. We would like to ensure an effective discussion takes place so that key issues can be flagged during the consultation.

Appendices

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Appendix 1 - Consultation Response and Questions

1.1 . Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document. In particular, we would like to hear from business customers and business representatives, non-domestic energy suppliers and TPIs.

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

1.3. Responses should be received by **15 February 2012** and should be sent to:

Louise van Rensburg
Retail Markets
Ofgem
9 Millbank
London
SW1P 3GE
rmr@ofgem.gov.uk

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

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

1.6. Next steps: Having considered the responses to this consultation, Ofgem intends to publish a decision document and final impact assessments. Any questions on this document should, in the first instance, be directed to:

Louise van Rensburg
Retail Markets
Ofgem
9 Millbank
London
SW1P 3GE
rmr@ofgem.gov.uk

CHAPTER: One

Question 1: Are there other key issues that we should be looking into in the non-domestic sector?

Question 2: What would stakeholders like to see on our website to help business customers and support a competitive supply market?

CHAPTER: Two

Question 3: Do stakeholders agree with our proposals to extend the scope of SLC 7A to include a wider small business definition, and do you agree with our proposed definition?

Question 4: Do stakeholders foresee significant costs or complications if we were to introduce our proposals? If so, please provide details and cost estimates.

Question 5: Do stakeholders agree with our estimates on the number of extra businesses covered by our proposed definition?

Question 6: Do stakeholders agree that we should review termination procedures and our current position that allows automatic rollovers?

Question 7: Are there other clauses that stakeholders believe we should be reviewing, in light of our expanded definition proposal?

CHAPTER: Three

Question 8: Do stakeholders agree with the conclusions we have drawn?

Question 9: Do stakeholders agree that we do not need to make changes to SLC 14 governing objections to supply transfer for non-domestic suppliers?

Question 10: Do stakeholders believe that we should publish our data relating to supplier objections on a regular basis?

Question 11: Are there other issues with the objections procedure, other than the obligations of the licence condition, which stakeholders consider need to be addressed?

Question 12: Do suppliers who have voluntarily sent data have views on whether the data we currently ask for on a monthly basis needs to change and why?

CHAPTER: Four

Question 13: Do stakeholders agree that the introduction of a new supply licence condition focussed on sales activities is a suitable method to prevent harmful sales and marketing activities in the non-domestic sector?

Question 14: Do stakeholders agree that this licence condition is necessary if Ofgem decides not to proceed with its Standards of Conduct proposals?

Question 15: Do stakeholders consider the introduction of an accreditation scheme for TPI Codes of Practice will reduce harmful TPI activities across the whole market?

Question 16: What do stakeholders consider to be key criteria for an accreditation scheme for TPI Codes of Practice?

Question 17: Do stakeholders believe it is necessary for TPIs to disclose their actual fee, or would making clear the fact that the customer is paying a fee for their services be sufficient?

CHAPTER: Five

Question 18: Do you feel the revised SOCs will help to achieve our objectives?

Question 19: Do you agree that the SOCs should be in a licence condition and enforceable?

Question 20: Do you agree the revised SOCs should apply to all interactions between suppliers and consumers?

Question 21: Do you have information regarding potential costs this may impose on suppliers?

Question 22: Do you think these proposals should apply to the whole non-domestic market, or only a sub-set of it, eg small businesses?

Question 22: Given your answers to the questions above, do we still need the licence changes proposed elsewhere in this document?

Appendix 2 – Draft amendments to SLC 7A

Condition 7A. Supply to ~~Micro~~ Small Business Consumers

Identification and treatment of ~~Micro~~ Small Business Consumers

7A.1 If the licensee intends to:

- (a) enter into a Non-Domestic Supply Contract with a Customer; or
- (b) extend the duration of a Non-Domestic Supply Contract (including the duration of any fixed term period which may form part of a Contract of an indefinite length)

the licensee must either take all reasonable steps to identify whether that Non-Domestic Customer is a ~~Micro~~ Small Business Consumer, or deem that Non-Domestic Customer to be a ~~Micro~~ Small Business Consumer.

7A.2 Where any Contract or Contract extension as described in paragraph 7A.1 is entered into with a Non-Domestic Customer that has been identified as, or deemed to be, a ~~Micro~~ Small Business Consumer, that Contract shall be a "~~Micro~~ Small Business Consumer Contract" for the purposes of this Condition.

7A.3 The licensee must not include a term in a ~~Micro~~ Small Business Consumer Contract which enables it to terminate the Contract or apply different terms and conditions to that Contract during a fixed term period on the grounds that the Customer no longer satisfies the definition of ~~Micro~~ Small Business Consumer.

Notification of ~~Micro~~ Small Business Consumer Contract terms and other information

7A.4 Before the licensee enters into a ~~Micro~~ Small Business Consumer Contract, it must take all reasonable steps to bring the following information to the attention of the ~~Micro~~ Small Business Consumer and ensure that the information is communicated in plain and intelligible language:

- (a) a statement to the effect that the licensee is seeking to enter into a legally binding Contract with the ~~Micro~~ Small Business Consumer; and
- (b) the Principal Terms of the proposed Contract.

7A.5 The licensee must ensure that all the express terms and conditions of a ~~Micro~~ Small Business Consumer Contract are:

- (a) set out in Writing; and
- (b) drafted in plain and intelligible language.

- 7A.6 Where the licensee enters into, or extends the duration of, a ~~Micro~~ Small Business Consumer Contract for a fixed term period, it must prepare a statement (hereafter referred to as a "Statement of Renewal Terms") which:
- (a) is set out in Writing;
 - (b) is drafted in plain and intelligible language;
 - (c) displays the following information in a prominent manner:
 - (i) the date the fixed term period is due to end, or if that date is not ascertainable the duration of the fixed term period;
 - (ii) the Relevant Date, or if not known at the time of providing the Statement of Renewal Terms, a description of how the Relevant Date will be calculated by reference to the end of the fixed term period;
 - (iii) a statement to the effect that the ~~Micro~~ Small Business Consumer may send a notification in Writing to the licensee at any time before the Relevant Date in order to prevent the licensee from extending the duration of the ~~Micro~~ Small Business Consumer Contract for a further fixed term period;
 - (iv) a postal and Electronic Communication address to which the Customer may send a notification in Writing for that purpose; and
 - (v) a statement explaining the consequences of the ~~Micro~~ Small Business Consumer not renewing the ~~Micro~~ Small Business Consumer Contract or agreeing a new Contract before the Relevant Date.
- 7A.7 Where the licensee enters into or extends the duration (including the duration of any fixed term period) of a ~~Micro~~ Small Business Consumer Contract, it must take all reasonable steps to provide the ~~Micro~~ Small Business Consumer with the following information within 10 days, or do so as soon as reasonably practicable thereafter:
- (a) a copy of all the express terms and conditions of the ~~Micro~~ Small Business Consumer Contract; and
 - (b) if the ~~Micro~~ Small Business Consumer Contract contains a fixed term period, the Statement of Renewal Terms.
- 7A.8 On or about 30 days before the Relevant Date, the licensee must provide the ~~Micro~~ Small Business Consumer with:
- (a) the Statement of Renewal Terms (unless the licensee has already prevented the ~~Micro~~ Small Business Consumer from extending the duration of the ~~Micro~~ Small Business Consumer Contract);

(b) a copy of any relevant Principal Terms that might apply to the ~~Micro~~ Small Business Consumer after the fixed term period of the ~~Micro~~ Small Business Consumer Contract ends, including:

- (i) terms that would apply in the event the Customer does nothing;
- (ii) terms that would apply if the Customer sends (or has already sent) a notification in Writing before the Relevant Date to prevent renewal of the ~~Micro~~ Small Business Consumer Contract but does not appoint another supplier.

7A.9 Where pursuant to paragraph 7A.8 the licensee is required to provide a ~~Micro~~ Small Business Consumer with any relevant Principal Terms, it must ensure that the Principal Terms are:

- (a) set out in Writing; and
- (b) drafted in plain and intelligible language.

7A.10 Where pursuant to paragraph 7A.8(b) the licensee provides a ~~Micro~~ Small Business Consumer with any offers of terms that relate to Charges for the Supply of Electricity, it must ensure that at least one offer is made in Writing which may be accepted at any time before the Relevant Date.

Length of notice periods in ~~Micro~~ Small Business Consumer Contracts

7A.11 The notice period for termination of a ~~Micro~~ Small Business Consumer Contract must be no longer than 90 days.

7A.12 Paragraph 7A.11 is without prejudice to the licensee's ability to enter into a ~~Micro~~ Small Business Consumer Contract with a Customer for a fixed term period which is longer than 90 days.

Extending the duration of ~~Micro~~ Small Business Consumer Contracts

7A.13 Where the licensee has entered into a ~~Micro~~ Small Business Consumer Contract for a fixed term period, it may only extend the duration of that Contract for a further fixed term period if:

- (a) it has complied with paragraphs 7A.7 and 7A.8;
- (b) the ~~Micro~~ Small Business Consumer has not sent the licensee a notification in Writing before the Relevant Date in order to prevent it from extending the duration of the ~~Micro~~ Small Business Consumer Contract for a further fixed term period; and
- (c) the duration of the further fixed term period is 12 months or less.

Definitions for condition

7A.14 In this condition:

[Electricity only] “Profile Class 3” must be interpreted in accordance with the Balancing and Settlement Code document titled “BSC Procedure Allocation of Profile Classes & SCS for Non-Half Hourly SVA Metering Systems Registered in SMRS BSCP516 Version 7.0” and the meaning given to “Profile Class” in the Balancing and Settlement Code;

[Electricity only] “Profile Class 4” must be interpreted in accordance with the Balancing and Settlement Code document titled “BSC Procedure Allocation of Profile Classes & SCS for Non-Half Hourly SVA Metering Systems Registered in SMRS BSCP516 Version 7.0” and the meaning given to “Profile Class” in the Balancing and Settlement Code;

“Micro Business Consumer” has the meaning given to “relevant consumer” (in respect of premises other than domestic premises) in article 2(1) of The Gas and Electricity Regulated Providers (Redress Scheme) Order 2008 (S.I. 2008/2268);

“Relevant Date” means the date which is at least 30 days, and no longer than 90 days, before the date any fixed term period of a Micro Business Consumer Contract is due to end;

“Small Business Consumer” means a Non-Domestic Customer:

- (a) which is a Micro Business Consumer; or
- (b) which employs fewer than 50 persons (or their full-time equivalent) and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million; or
- (c)
 - [Electricity only] whose premises are classified as Profile Class 3 or Profile Class 4.
 - [Gas only] which has an annual consumption of gas of not more than 293,000 kWh.

Appendix 3 – Open letter to suppliers on Non-domestic ‘Objections’

Dear Colleagues,

Reminder of obligations under SLC 14 towards non-domestic customers and examples of good practice

Background and purpose

1.1. The purpose of this open letter is to remind suppliers of their obligations under SLC 14 and to provide examples of good practice.

1.2. Effective consumer activity is a key driver of competition among suppliers and a stimulant to new entry. However, customers, suppliers and other stakeholders have complained about the use of objections by some suppliers. We also found that some suppliers had a high share of complaints relative to their market share.

1.3. As part of the Retail Market Review, we looked more closely into the reasons behind the high objections of some suppliers. The findings from the formal information request lead us to believe that some suppliers’ use of the objections process and their customer notifications may not be compliant with certain requirements of SLC 14. For this reason we think it is important to remind suppliers of their obligations and to provide examples of good practice.

1.4. Ofgem is currently monitoring suppliers’ compliance with SLC 14 and will be considering whether it is appropriate to commence formal investigations which may ultimately lead to enforcement action being taken. However, without prejudice to any further action which may be taken by Ofgem, we would encourage suppliers to review their processes and to resolve any potential areas of concern.

1.5. The contents of this open letter will be reviewed in the event that Ofgem decides to proceed with legally binding standards of conduct. In that event, it is envisaged that many of the areas of good practice discussed in this open letter could be enforceable as part of the binding standards of conduct.

Ofgem’s views

1.6. The obligations contained in SLC 14 can be grouped into the following categories:

- a) General prohibition and allowable reasons for objection
- b) Customer notification that the supplier prevented the transfer

- c) Customer notification of the grounds of the objection
- d) Customer notification of how the customer may dispute / resolve the objection

General prohibition and allowable reasons

1.7. SLC 14.1 is a general prohibition to prevent a proposed supplier transfer except in accordance with the provisions set out in SLC 14.2.

1.8. Sub-paragraphs 2(a) to 2(c) of SLC 14 only allow the following reasons for a supplier to object to a non-domestic customer transfer:

- If the contract includes a term that allows objection (including debt).
- If the proposed new and current suppliers agree that the transfer was initiated in error.
- Electricity specific: If not all related metering points were applied for on the same working day.
- Gas specific: For contracts that were entered into before 05 January 2004 and that do not include a term that allows the supplier to object: if the customer has debt outstanding for more than 28 days, and that demand was put in writing, and if the new supplier applies for the transfer of the gas supply prior to the end date of the contract.

1.9. In the light of the absolute prohibition to object for any other reasons, objections raised in error are likely to amount to a breach of SLC 14.1 and evidence that such errors are systematic will prompt consideration of an investigation in light of the criteria contained in the enforcement guidelines⁵⁸. It is the responsibility of suppliers to ensure that their systems are designed so that transfer requests are only blocked where an allowable reason can be determined. For example, given that suppliers are prohibited from objecting to transfers on contractual grounds for non-domestic customers that are on deemed contracts, the supplier must ensure that they identify deemed contract customers and do not raise objections against them.

Customer notification that the supplier prevented the transfer

1.10. SLC 14 states:

14.3 "If the licensee makes a request [...] to prevent a Proposed Supplier Transfer of a Non-Domestic Customer, it must give a Notice to that customer to inform him:

- (a) that it has made a request to prevent the transfer;*
- (b) of the grounds for the request; and*

⁵⁸ Ofgem's Enforcement guidelines:
<http://www.ofgem.gov.uk/About%20us/enforcement/Documents1/Enforcement%20Guidelines%20post%20consultation.pdf>

*(c) how the customer may dispute or resolve such grounds,
as soon as reasonably practicable after making the request.”*

1.11. Sub-paragraph 3(a) of SLC 14 requires that if the supplier prevents a proposed supplier transfer of a non-domestic customer, it must give a notice to that customer that it has prevented the transfer as soon as reasonably practicable.

1.12. Given that Sub-paragraph 3(a) of SLC 14 used the defined term “Notice”, it is absolutely clear that notice has to be provided in writing to the customer, although this may include a written form of electronic communication where both the customer and the supplier have expressly agreed to receive such notice in that manner.

1.13. Suppliers can phone the customer for speedy resolution of issues and we recognise that some customers may prefer this communication to written notice. However, in order to comply with SLC 14 suppliers must additionally provide the customer with written notice. In order to demonstrate compliance we further suggest that supplier keep appropriate records of the provision and contents of all written notifications of objections.

Customer notification of the grounds of the objection

1.14. SLC 14.3(b) contains the requirement to notify the customer of the grounds of the objection.

1.15 The supplier must notify all reasons that apply at the time of the objection, and should, by way of good practice, also refer to the relevant clause in the supplier’s contract with the customer which allows the objection. It is likely to be a breach of SLC 14.3(b) for the customer to receive further objections once the first objection was resolved if the reasons for the subsequent objection existed at the time of the first objection notification.

1.16. For example, if a micro business customer has not opted out of being rolled over to another fixed term contract, and has outstanding payments at the time of the transfer request, we consider the following to be good practice compliance (subject to any other information that may need to be provided and essential in order to satisfy other requirements of SLC 14): the supplier should notify the customer in writing that the supplier has blocked the transfer because of debt and because the customer is/would still be in contract at the time of the supply transfer.

Customer notification of how the customer may dispute / resolve the objection

1.17. 14.3(c) requires that if the supplier prevents a proposed supplier transfer of a non-domestic customer, the written notice provided must inform the customer how to dispute/resolve the grounds. This notice should provide clear instructions to the consumer on what they have to do to resolve or dispute the objection to the supply transfer. If more than one reason is applicable at the time of the objection, then instructions must be given on how to resolve/dispute all applicable grounds for objection at that time.

General good practice

1.18. From our research we have seen examples of correspondence that vary considerably in the quality of information presented to customers. Although not strictly specified in SLC 14.3(c), good practice that we would encourage suppliers to adopt, includes the following:

- the name of the proposed new supplier that has requested the transfer, to help the customer to identify any unauthorised transfer applications,
- provide the customer with important dates such as the notice period, the latest date by which the supplier must have received the termination notice in writing, details of any early termination fees (if applicable) and the implications if the customer does not send a termination notice,
- provide the customer with the earliest supply transfer date,
- if the new supplier has not registered for all related meter points, then provide all meter point numbers to the customer and the new supplier.

Relationship with Ofgem's Enforcement Guidelines

1.19. For the avoidance of doubt Ofgem will consider whether to investigate potential breaches of SLC 14 in accordance with the criteria contained in our published enforcement guidelines:

<http://www.ofgem.gov.uk/About%20us/enforcement/Documents1/Enforcement%20Guidelines%20post%20consultation.pdf>

Associated Documents

- Standard Conditions of the Gas Supply Licences:
http://epr.ofgem.gov.uk/document_fetch.php?documentid=14510
- Standard Conditions of the Electricity Supply Licences:
http://epr.ofgem.gov.uk/document_fetch.php?documentid=14509
- Of gem's Enforcement guidelines:
<http://www.ofgem.gov.uk/About%20us/enforcement/Documents1/Enforceme nt%20Guidelines%20post%20consultation.pdf>

Appendix 4 - Draft legal text for Marketing Licence Condition for Non-domestic suppliers

Standard Condition 7B. Sales Activities with Non-Domestic Customers

7B.1 In respect of any Sales Activities, the licensee must take all reasonable steps to ensure that all information which the licensee, its staff and any Representative provides (whether in Writing or orally) to a Non-Domestic Customer is:

- (a) complete, accurate and not misleading (in terms of the information provided or omitted); and
- (b) communicated (and, where applicable, drafted) in plain and intelligible language.

7B.2 For the purposes of this condition:

“Sales Activities” means any activities of the licensee, its staff or any Representative which are directed at or incidental to identifying and communicating with Non- Domestic Customers for the purpose of promoting the licensee’s Non-Domestic Supply Contracts to them and includes entering into such contracts with such customers.

Appendix 5 – Ofgem accreditation of a third party intermediary Code of Practice: Draft certification requirement

1.1. This document sets out our initial thinking on the key elements that would need to be included in any third party intermediaries (TPIs) Code of Practice (CoP) brought to us for accreditation. It is intended to be a starting point for discussion with non-domestic TPIs, electricity and gas suppliers (suppliers), and other relevant parties. Whilst this accreditation is voluntary, it aims to give customers confidence to engage in the market where they see the quality mark.

Background

1.2. The Retail Market Review (RMR) highlighted our concerns relating to the sales and marketing activities of some TPIs in the non-domestic energy market. This is an area which we do not directly regulate. Some suppliers may not contract directly with TPIs. Therefore our proposal to introduce a sales and marketing licence condition to regulate sales activities would not apply to the whole TPI market. We propose to tackle these concerns with the introduction of a TPI CoP accreditation scheme. We intend that this will have the effect of helping to fill the 'protection gap' that our proposed marketing licence conditions for non-domestic sales activities may leave. The CoP Accreditation Scheme has the ability to cover TPIs regardless of their relationship with suppliers. This scheme should complement other measures in our aim to increase the transparency of TPI activities, and better capture misselling.

1.3. The purpose of this draft document is to highlight key criteria that we believe should be included in a TPI CoP, and our interpretation of these criteria. Selection is based on our perceived importance of them, and our analysis of CoPs that we are currently aware of. Some areas are more specific than others (eg 'Content') as we believe that the relevant stakeholders should be aware of our broad concerns.

Ofgem's Views

1.4. We have identified key criteria that we believe should be included in an Ofgem accredited CoP. These examples are mainly illustrative, and therefore are not an exhaustive list of what a CoP should contain. They are as follows:

- a) Content
- b) Monitoring
- c) Complaints
- d) Enforcement
- e) Publicity

Content

1.5. Our RMR consultation highlighted our desire to (a) address customer awareness of commission charges paid for TPI services and (b) better address misselling activities. In line with these concerns, we would expect to see requirements in the CoP for:

- signatories to state within any agreement⁵⁹ with the customer that they are paying commission (where applicable) and the source of the commission;
- full recordings of telephone calls between the customer and signatory
- the customer to be made aware of whom the signatories represent at the start of any dealings with them.

Monitoring

1.6. It is our minded position that a CoP accreditation scheme should foster an environment of self-regulation. At the heart of this should be stringent monitoring processes which will ensure the CoP is functioning as intended. These processes are an integral part of increasing consumer confidence in TPI services and producing the positive impact that we desire.

1.7. In order to produce an adequate monitoring system for the code, we believe there are several procedures which can be incorporated, including:

- regular checks on signatories using agreed methods (eg mystery shopper);
- publication of monitoring results;
- regular reviews of the code by the sponsor;
- consumer satisfaction surveys;

Complaints

1.8. A user friendly complaints system will provide additional protection for customers should they have specific concerns about TPI activities which are not captured by monitoring. This provision will aim to increase consumer confidence in TPI activities as they will have the knowledge that complaints will be dealt with. It is our view that this system should include provisions for:

- outlining the appropriate procedure for making complaints, including contacts, methods of communication and relevant information that must be provided;

⁵⁹ Agreement covers written and verbal contracts.

- details of further complaint procedures should a satisfactory agreement not be found, including an independent redress scheme.

Enforcement

1.9. In order to be relevant, monitoring and complaints procedures must be sufficiently supported by methods to enforce the code requirements. We believe that the ability to handle any breach of the CoP is the ability to effectively, impartially and as quickly as possible is key. These procedures will send a clear signal to consumers and the industry that the signatories of the code are serious about reducing harmful TPI activities.

1.10. With relation to the operation of enforcement procedures, we would expect to see:

- disciplinary procedures which are independent of the code sponsor(s) and members;
- a range of escalating sanctions for breaches of the CoP.

Publicity

1.11. Publicity of the code forms an important aspect of making it function properly. Ensuring public awareness informs them of the benefits that they are entitled to (eg complaints procedures), and will encourage them to engage with signatories. Overall awareness will in turn help raise industry standards as customers seek out code signatories when searching for TPI services.

1.12. We would expect that the customers should be made aware of the CoP at the beginning of dealings they are having a signatory, and that they can easily identify these signatories. Awareness of the CoP could be raised via advertising or at the point of sale, with responsibility on the signatory to communicate this information to the customer. Signatories to the code should also make it freely available without charge to any relevant groups, and in an appropriate format (eg hard copy, by e-mail, etc.).

Next Steps

1.13. This document sets out our initial thinking on this issue and we invite stakeholders to offer views on our interpretation of the criteria, and the choice of key criteria themselves. We will host a meeting during this consultation to discuss this further with interested parties.

Appendix 6 – Draft licence condition framework for standards of conduct

NEW STANDARD CONDITION 1A

Standard Condition 1A – Customer Objectives for supply activities **Application of standard condition**

1A.1. Standard condition 1A applies to all activities of the licensee which involve, or otherwise relate to, dealings with a Customer.

Customer Objectives and obligation to achieve them

1A.2. The licensee must take all reasonable steps to:

- (a) achieve each of the Customer Objectives; and
- (b) avoid doing anything which jeopardises its ability to achieve any of the Customer Objectives.

1A.3. The licensee must ensure that all standard conditions which apply to any activities of the licensee which involve, or otherwise relate to, dealings with a Customer are interpreted and applied in a manner consistent with the Customer Objectives.

1A.4. The Customer Objectives are that:

- (a) the licensee, its staff and any Representative behave and carry out any actions in a fair, honest, transparent, appropriate and professional manner;
- (b) the licensee, its staff and any Representative provide information (whether in Writing or orally) to a Customer which:
 - (i) is complete, accurate and not misleading (in terms of the information provided or omitted);
 - (ii) is communicated (and, if provided in Writing, drafted) in plain and intelligible language;
 - (iii) relates to products or services which are appropriate to the Customer to whom it is directed; and

- (iv) is otherwise fair both in terms of its content and in terms of how it is presented (with more important information being given appropriate prominence);
- (c) the licensee, its staff and any Representative:
- (i) make it easy for a Customer to contact the licensee,
 - (ii) act promptly and courteously to put things right when the licensee, its staff and any Representative make a mistake, and
 - (iii) otherwise ensure that customer service arrangements and processes are complete, thorough, fit for purpose and transparent.

Guidance on condition

1A.5 The licensee must have regard to any guidance on the interpretation of this condition which the Authority may issue and may from time to time revise.

Definitions for condition

1A.6 For the purposes of this condition:

“Customer Objectives” means one or more of sub-paragraphs 4(a) to (c) of standard licence condition 1A.

Appendix 7 - Glossary

B

Balancing and Settlement Code (BSC)

The BSC contains the rules and governance arrangements for the electricity balancing and settlement in Great Britain. All licensed electricity suppliers must be party to it.

Business Protection Against Misleading Marketing Regulations (BPMMR) powers

These are statutory powers that prohibit businesses from advertising products in a way that misleads traders and set out conditions under which comparative advertising, to consumers and businesses, is permitted.

C

Code of Practice

A set of guidelines and principles to be followed by members of some profession, trade, or group.

Commission for Energy Regulation (CER)

The CER is the independent regulator for the electricity and natural gas sectors in Ireland.

D

Department for Business Innovation and Skills (BIS)

A UK government department created in June 2009 by the merger of the Department for Innovation, Universities and Skills (DIUS) and the Department for Business Enterprise and Regulatory Reform (BERR). It is responsible for policy in areas such as business regulation and support, consumer affairs, trade, training, regional development and further and higher education, among others.

Department for Environment, Food and Rural Affairs (Defra)

The UK government department responsible for policy and regulations on the environment, food and rural affairs.

Distribution system

A local network that connects electricity/gas from the transmission system to end consumers at lower voltage/lower pressure.

E

Elexon

Elexon delivers the Balancing and Settlement Code (see definition above). Their systems capture the contracted volumes from generators and suppliers so they can see what they said they would produce or consume.

F

Financial Services Authority (FSA)

The FSA regulates the financial services industry. It is an independent nongovernmental body, given statutory powers by the Financial Services and Markets Act 2000. It is a company limited by guarantee and financed by the financial services industry.

H

Half-hourly meter

Half hourly meters tend to be used by large commercial businesses with high electricity consumption. Customers with maximum demand in excess of 100kW are mandated to be metered every 30 minutes. Meter information is received automatically by suppliers.

I

Industrial & Commercial (I&C) customer

Mainly refers to larger non-domestic customers.

Incumbent supplier

Before privatisation, the 14 electricity regions of England, Wales and Scotland each had a Public Electricity Supplier (PES) with a monopoly of electricity supply and distribution. Competition has been introduced in supply, so these 14 suppliers (consolidated into 5) are known as incumbent suppliers (or ex-PES). The 14 regions and their incumbent supplier are detailed below. For gas there is only one incumbent supplier, British Gas.

Region	Supplier Group
London	EDF Energy
Seeboard	
SWEB	
East Midlands	E.ON UK
Eastern	
Norweb	
Midlands	RWE npower
Northern	
Yorkshire	
Scottish Hydro	Scottish and Southern Energy
Southern	
Swalec	
Manweb	Scottish Power
Scottish Power	

Independent supplier

This will usually mean new entrants to the energy supply sector, after the introduction of the competitive market, i.e. it excludes former incumbents.

K

kWh

Kilowatt-hour is a unit used to measure energy consumption in both electricity and gas.

M

Market Share

The proportion of total customers (usually proxied by the number of meter points) within a market that are registered to a particular supply group.

Market Liquidity

The ease with which new entrants or small suppliers are able to secure wholesale gas and electricity supplies, for on-sale to retail customers.

Master Registration Agreement (MRA)

Along with its supporting documentation, the MRA provides a governance mechanism to manage the processes established between electricity suppliers and distribution companies to enable electricity suppliers to transfer customers.

Micro business customer

A business that consumes not more than 55,000 kWh of electricity per year **or** consumes not more than 200,000 kWh of gas per year **or** employs fewer than 10 persons and whose annual turnover or balance sheet does not exceed €2m.

MWh

A megawatt hour. Equal to 1000 kWh.

N

New entrant

An entrant that does not have an incumbent customer base.

Non-domestic customer

A customer that uses energy wholly or mainly for commercial purposes.

Non-domestic energy supplier

A supplier that only supplies the non-domestic market.

O

Objection

A customer's current supplier can object to and block the transfer of supply of electricity or gas to another supplier under certain circumstances specified in the contract. These will typically be if the customer is still in contract, or in debt.

Office of Communications (Ofcom)

The independent regulator and competition authority for the UK communications industries

Office of Fair Trading (OFT)

Enforces consumer protection law and competition law, reviews proposed mergers and conducts market studies.

Office for National Statistics (ONS)

Collects and publishes statistics related to the economy, population and society of the UK at national and local levels.

P

Profile Class

Where half-hourly metering is not installed, profile classes are used to provide an electricity supplier with an expectation as to how electricity will be consumed through the day. Domestic customers are class 1 and 2. Non-domestic are classes 3-8.

S

Self regulation

Industry regulation without binding licence conditions.

Smart meter

A generic term for innovative forms of metering that provides increased levels of functionality above that of a basic meter. It usually includes at a minimum the ability to read the meter remotely via a communication channel.

Small and medium size enterprises (SMEs)

The EU Commission defines as enterprises which employ fewer than 250 persons and annual turnover not exceeding €50m and/or an annual balance sheet total not exceeding €43m.

Small Business

The EU Commission defines a small enterprise as one employing fewer than 50 persons and whose annual turnover and/or balance sheet not exceeding €10m. Our proposed 'Small Business' definition adds energy usage to this definition of annual gas consumption not exceeding 293,000 kWh **or** customers with electricity profile class 3 and 4.

Standards of Conduct (SOCs)

A written policy and procedure that outlines wide standards of integrity and business ethics.

Standard licence condition (SLC)

The legally binding conditions that gas and electricity suppliers must meet to supply to domestic and non-domestic customers, in accordance with the Gas Act (1986) and Electricity Act (1989).

Switching

The process of changing gas or electricity supplier.

T

Termination procedure

The process of ending an energy supply contract.

Third Party Intermediary (TPI)

TPIs help consumers to compare alternative offers available in the market, in much the same way a consumer might use an insurance broker.

Third Package

Refers to a package of EU legislation on European electricity and gas markets that entered into force on the 3 September 2009. The purpose of the Third Package is to further liberalise European energy markets. DECC is primarily responsible for its transposition in Great Britain and must do this by the 3 March 2011.

Transmission system

The system that transfers electricity/gas at high voltage/pressure around the UK before distribution to end consumers. For electricity this will be the overhead lines, underground cable and substations. For gas this is the high pressure pipes and compressor stations.

W

Water Services Regulation Authority (Ofwat)

The economic regulator of the water and sewerage sectors in England and Wales.

Appendix 8 - Feedback Questionnaire

11.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

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

11.2. Please send your comments to:

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