



16 May 2012

**Andrew MacFaul**  
Consultation Co-ordinator  
Ofgem  
9 Millbank  
London  
SW1P 3GE

## **Response to Consultation**

Dear Mr MacFaul

### **1. Introduction**

During 2011, I have been involved in a long and largely unproductive correspondence with my energy supplier, EDF. When I copied one letter to Ofgem, they contacted me, and recommended that I response to the RMR consultation.

I am therefore entering this consultation at a midway stage. The consultation document is long, containing many technical terms and issues. It has many cross references to other documents. If I have misunderstood the import of any of the proposals, I can only offer my apologies, and make myself available should Ofgem wish to contact me to clarify matters.

### **2. Appendix 6 feedback**

6.1 Ofgem requested our answers to the following

Questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?

No.

2. Do you have any comments about the overall tone and content of the report?

It appears to my eyes that little cognisance has been taken of the reaction of the energy suppliers. History would indicate (and some examples are quoted in the report itself) that they will use many methods to implement that changes in their favour, and not follow the spirit voluntarily. Therefore, every policy proposal has to be measured against a criterion of whether it can and will be implemented without dilution or workaround. I suspect some of the proposals will fail this test. See detailed answers.

3. Was the report easy to read and understand, could it have been better written?

The text of the report is very repetitive. I lost count of the number of times it was stated in the report that, "RMR proposals seek to promote competition and consumer engagement"  
A competent sub-editor could usefully be employed.

Also, the document appears full of what has been called BGO's (Blinding Glimpses of the Obvious). For example, (Sec 2.55 and many other places) "Proactive and reactive consumers will benefit from tariffs which are more comparable and easier to understand." Do we really need to spend time debating the truth of such statements?

**4. To what extent did the report's conclusions provide a balanced view?**

Whilst reference is made to vulnerable customers, there is little development of the types of vulnerability, and whether the proposals would have a specific effect on that type. For example, apart from the low-user/pensioner on their own type, there is likely to be severely-ill people who need to keep their house warmer than normal and so might be a high user with a low income. Different pricing policies would have radically different effects on these two types.

**5. To what extent did the report make reasoned recommendations for improvement?**

The general direction of the proposals is excellent, but needs to go further. I welcome the option appraisal part, but it is clear that not all possible options have been appraised fully. See detailed answers.

**6. Please add any further comments?**

None.

I trust these answers are helpful, and I would be willing to engage further if the need arises.

Yours truly



## **Detailed Answers to Questions posed**

### **CHAPTER: Two**

**Question 1:** Do stakeholders agree that we should introduce the RMR core proposal?

- A. Only partially.
- B. I see no justification at all for any standing charge, fixed or otherwise. No other retail supplier has such a structure. The standing charge militates very strongly against the protection of low-user vulnerable customers. It cannot be justified on any grounds of supplying the infrastructure, since that cost bears almost no relation to the energy consumed or the connection made. In any case, the companies charge separately for a new or upgraded installation. I am very surprised and disappointed that a standard (usage-variable) rate only was not considered.

I noted that one part of the standing costs is quoted as “non-locational incremental fixed costs of serving an additional customer”. That is sheer accounting jargon and obfuscation, and no justification for charging an existing customer separately. Can you imagine that being on a shelf label in the supermarket?

- C. If I were an energy supplier with the current proposal, is there anything to stop me setting up separate companies or even separate “brands” to allow me to have separate “standard tariffs”. Can Ofgem refuse a licence from a separate company/brand set up by an existing company/brand just for this purpose? I am not convinced that the regulations clearly state – “one operator - one standard tariff”. For example, I originally bought my power from J Sainsbury, trusting in their brand. After some time, the bills changed to being headed EDF. I had no say in this change. Is the implication of the proposed regulations that there will be only 6 “standard tariffs” covering the whole of UK?

**Question 2:** Which cost elements should be included in the standardised element of standard tariffs?

- D. I am not certain I understand this question. The term “the standardised element of standard tariffs” is not defined in the document, and is only referred to once, in a heading. If I don’t understand it, how will the average customer have it explained to them. When I buy a product, I would expect that all the costs associated with its supply are included in the price – simple. Otherwise, either there is a loss leader or the supplier will go out of business.
- E. If by “the standardised element of standard tariffs” you mean standing charge + the standard unit rate – see B above. If you mean excluding such things as a discount for direct debit, then because these are reductions in overall price, any inclusion is immaterial. The standard price should include all costs, and be the maximum that the supplier should charge.
- F. It is strong argument against standing charges that having a standing charge (fixed by Ofgem) requires Ofgem to make such tortuous accounting judgments. I would suggest that Ofgem should get out of the job of micromanaging the accounting systems of energy suppliers. Ofgem will never be able to succeed in micro-managing effectively (vide experience of work-study and other micro-managing failures).

**Question 3:** Do stakeholders agree that our information remedies would help consumers engage effectively? If not, what would be more appropriate remedies?

- G. I agree that the following should contribute towards greater “engagement”

- Much simpler pricing
- Much simpler and consistent wording (especially using the terms that are known to the public outside energy (e.g. price, not tariff; bill, not account; Annual Energy Report, rather than statement)
- Separating bills (which in my view should be monthly, like most other organisations – see below) from “Annual Reports”, price notifications and any other marketing communications.

H. Insisting that suppliers always:

- Keep each and every communication is separate. Having a bundle of papers arrive in an envelope is a direct incentive to aim for the waste paper bin. Currently my bills come with a covering letter which talks airily about “great new offers that will be coming my way”. That is the start of any disengagement.
- Stop the ridiculous practice for gas consumption of varying the conversion between the meter reading (in cubic meters) to kWh dependent on some totally unverifiable “calorific value”. The gas price to a domestic customer should per cubic metre. By analogy, one does not buy flour for the home with the price varying according the moisture content. It can only be a consideration in the wholesale market if the chemical characteristics of the gas change over time. It may be useful if Ofgem were to set a standard conversion from cubic metres to kWh for domestic purposes which does not change over time.
- Separating out the calculation of usage and amount that it costs in the period from the state of my account with the supplier. At present, my bill shows five negative amounts:
  - i. the opening balance (stated erroneously to be “Amount of last bill”);
  - ii. my total payments
  - iii. the Direct debit discount;
  - iv. the VAT refund (why do the calculations in the wrong order?); and
  - v. the closing balance (again erroneously titled as “Total for this period”);
 and three positive amounts:
  - vi. the charges for consumption
  - vii. Total charges for the period
  - viii. VAT at 5%;
 Totally confusing.

I. In the document, you keep using phrases such as “to clarify our policy intent”. I put it to you that the policy intent is totally clear – namely, to improve what you call “customer engagement”, what most people call “getting a much better deal for customers”. The problem that is not clearly addressed throughout the whole document is the clarity of whether the proposed policy will work and produce the desired outcomes. There is no measure of expected outcome. I would want to see much more thought given as to what is expected from proposed changes. For example, are you going to measure what percentage of low income people achieve a reduction in their bill as a result of any given change?; are you going to measure how many people are encouraged to take up energy saving initiatives from the suppliers as a result of the changes?; etc. etc.

J. There is clear acknowledgement in the document that many previous initiatives have not worked, in many cases because they have not been implemented by the suppliers. This represents a very significant failure rate in the regulation of the industry. Whilst I would always advocate talking to suppliers’ representatives with the aim of making agreed proposals, in the end, a policy that is ignored by the regulated target is a failed policy. I therefore welcome the word “**must**” as it appears in the various draft regulations. However, it would help the process if a clear sanction was stated alongside each and every imperative, and the sanction should be

sufficiently robust to make it not worthwhile for the regulated body to ignore the imperative command.

- K. I see no justifiable reason why Energy bills cannot be, like every other domestic bill, sent out monthly. The currently quarterly practice is a relic of some decades ago, when most houses were occupied during the day, and the meter man came round on a regular basis. I can remember even leaving a note out pinned on the door for him; estimated bills were NOT the norm. The advent of allowing estimates only perpetuated this lazy practice. It cannot help the customer engagement if the supplier only cares to talk to the customer every 3 months or so. I would suggest one reason why people do not understand how much they are spending is because they are not reminded of it on a regular basis. I would advocate that **monthly billing** should be the norm, as it is with phones, credit cards, and almost all domestic bills.

**Question 4:** Do stakeholders consider that the price comparison guide should be presented in a p/kWh figure, a £ per month figure or both?

- L. It should be both. They are essentially used for two separate purposes. Both figures should always be quoted, not just in price comparison data. The price per unit is used when debating how much an activity is costing, and whether it is worthwhile. The £ per month is used when budgeting and making price comparisons. (Note that you are accepting that £ per month is the right unit. I would agree with this. This does not equate with how bills are presented, which is mainly quarterly. See comments above re monthly billing).

**Question 5:** Do stakeholders agree that the proposed exceptions for legacy social tariffs and extremely high consumption domestic consumers are appropriate?

- M. I see no reason to object to this, but you need to define these categories tightly.

**Question 6:** Do stakeholders agree that we should not allow an exception for suppliers to offer a green standard tariff in addition to an “ordinary standard tariff”?

- N. No, I do not agree. In principle, it seems to be a good idea to have a “green” tariff, and this ought to encourage realistic market segregation. My main concern is the definition of “green”, and the public expectation of what they are paying if they pay a premium for “green” power. Perhaps a minimum set of conditions in order to use the word “green” is required. I don’t know enough about the suppliers’ current “green” obligations to discuss this further.

**Question 7:** Do stakeholders believe it would be appropriate to introduce a six-month price guarantee for standard tariffs, or do you consider that this would undermine the simplicity of the RMR core proposal?

- O. This strikes me as essential for consumer confidence, and the suppliers should be able to fulfil it. I suspect that one of the main reasons customers consider a change but don’t implement it is that they cannot be sure (at the date of deciding) whether their existing tariff is going to change in the near future. It is relatively easy for a customer to compare two fixed term tariffs, but virtually impossible to compare a fixed term versus a variable tariff. Would they be jumping out of the fat into the fire? If one is to compare a proposed fixed tariff with the standard tariff, one has to have some certainty that the standard tariff will be stable. As I interpret the graphs about price movements, there seems to be a huge disparity between dates of changes in wholesale prices and the changes in retail prices. I would conclude therefore that the suppliers are perfectly capable of dealing with the risks of price differential over a medium (e.g. 6 month) term.

## CHAPTER: Three

**Question 8:** Do stakeholders agree with our recommended proposal of Option 3 („Introduce more prescriptive rules”) for bills and annual statements?

- P. I can only find reference in the document to a template for what I assume is an annual statement. (If I have missed these, please let me know, so that I can modify my response.) Just as important to this consultation are the templates for
- the monthly (or quarterly) bill
  - the price rise notification.
  - the end of (non-standard, fixed) contract

All of these communications are triggers for potential “customer engagement”, and need to be carefully regulated. Without them, the policy cannot be as effective as it should be.

- Q. I agree with the “more prescriptive rules” approach, but your “Proposed Standardised Template” is most uninformative. It does not give
- That this is about a Price INCREASE – it is mealy mouthed and talks of price changes;
  - How the figures are arrived at – i.e. what baseline information was used, how many year’s history might have been taken into account, how many estimated readings have been used;
  - Whether any other tariffs by the same supplier would be cheaper (or more expensive) - it must be that the first alternative is to get the customer on to the cheapest tariff offered by the supplier. This is often a requirement or good practice in other sectors. Anything else is rip-off by the supplier;
  - Whether the period reported was affected by a price rise, and whether another price rise was in the estimate for the next year (or ignored);
  - What would have been effect without any such price rises – which would, of course have been forced on to the customer
  - If you have to have a standing charge (which I am opposed to), what proportion of the charge is fixed, and what can be affected by the customer managing his usage.
  - ...and I can’t make the figures in the example add up!!!!

I am glad to see you only report monthly and yearly figures but, of course, these are not substantiated by any reference to them on the customer’s bill - a further argument in favour of monthly billing.

**Question 9:** Do stakeholders agree with our recommended proposal for SLC 23 notifications including price increase notifications of option 3 („Additional information plus prescribed format”) and option 4 („Tighten and clarify policy intent”)?

- R. I will not repeat my previous comments, but which apply to this. However, I must remark on the new Clause 23.4 ai). This must be one of the weakest expressions of regulation I can think of. There is no specification or guidance as to what might be a reasonable reason. There is no requirement to make quantifiable statements. There is no requirement to relate it to a given date period – even for a fixed term contract. A short clause such as “because the wholesale price has risen” fits this regulation, but is totally uninformative, and would completely disengage the consumer.

**Question 10:** We seek views from stakeholders on the additional requirements outlined in option 3 („Additional information plus prescribed format”) for SLC 23 notices including price increase notifications.

S. I will not repeat my previous comments, but which apply to this.

**Question 11:** We seek views on any proposals to restrict the inclusion of additional materials (e.g. marketing material) along with SLC 23 notifications.

T. I can only repeat that good communication is clear, simple, focussed communication.

**Question 12:** We seek views along with any supporting data or evidence for our proposals for information signposted to consumers in option 4 („Tighten and clarify policy intent”) for SLC 23 notifications including price increase notifications.

U. One has to ask the question why the suppliers were able to avoid implementing the previous licence conditions. You have NOT supplied (as far as I can see) an explanation for this failure, or any description on action proposed to correct the failure. Until that self-examination is done, and corrective action taken, then I would not like to comment on any further changes in regulation.

However, it is vital that this self-examination is done urgently, as the outturn of such self-examination **MUST** be used to judge whether the current proposals are satisfactory. There is a prima facie case that they are likely **NOT to be satisfactory** in this regard.

**Question 13:** We seek views on any additional recommendations which stakeholders consider relevant for bills, annual statements and SLC 23 notifications.

V. I will not repeat my previous comments, but which apply to this.

**Question 14:** We intend to consult on the content of the Confidence Code separately if and when we take over the governance responsibility for it. However at this stage we welcome any early views on developing the Confidence Code.

W. None at present

**Question 15:** We welcome views from stakeholders on our proposals for enhanced monitoring.  
67

X. I cannot see any reason why enhanced monitoring should not be implemented. Indeed, given the public attitude to this whole subject, I am surprised that Ofgem has not sought to do this before this consultation. Without such “enhanced monitoring”, any judgment about the effectiveness of regulation is nugatory.

Y. I am further surprised that Ofgem consider that “naming and shaming” is considered an adequate response to some of the practices and the public attitudes in this area. It might be adequate as a first warning, but no system of discipline is fit for purpose if the end result is that the perpetrator is allowed to make a profit from his misdemeanours. Good behaviour is only forthcoming when it is differential in its outcome from bad behaviour.

**Question 16:** We invite specific views on costs and other implications if we were to introduce our proposals. Please provide details and cost estimates where appropriate broken down by each proposal.

- Z. The cost structure of this industry needs to be taken into account when considering whether the cost of regulatory compliance is a significant factor. I do not have available any details on the cost structure. However, whilst it is often used as an excuse for resisting a particular course of action by the large companies, one must also consider the effect on customers, particularly the poorer customers. Those in fuel poverty are having to choose between heating and eating. That is a considerable starker choice than any choice made in the industry about the choice of regulatory costs.

Whilst it is appropriate for Ofgem to consider cheaper ways of achieving the same aims, in the end, it is the aims that are important, not the costs of achieving them.

## **CHAPTER: Four**

**Question 17:** Do you consider the revised SOC's will help achieve our objectives?

- AA. Yes, I believe they might. However, to achieve that, the wording of the "standards" needs to be significantly enhanced. Most of them appear to be far too vague, as I understand it, to be legally enforceable. I would suggest that they are re-written and measured against the normal SMART (Specific, Measurable, Attainable, Relevant, Time-bound) criteria, that applies to any target.

**Question 18:** Do you agree the revised SOC's should apply to all interactions between suppliers and consumers?

- BB. Yes

**Question 19:** Do you agree that the SOC's should be introduced as an overarching, enforceable licence condition?

- CC. Yes

**Question 20:** Do you have information regarding potential costs this may impose on suppliers?

- DD. No, but the comments at Z above apply

## **CHAPTER: Five**

**Question 21:** Do you agree with our analysis of the impact on vulnerable consumers?

- EE. Since you have not defined "vulnerable", this question is unanswerable. However, it does need an answer

**Question 22:** What are your views on the need for further intervention?



FF. I think the case for some intervention is absolute – people are dying because of the lack of protection from the ravages of high energy costs. However, I am not qualified to devise or comment on such an intervention, or who might be the appropriate body to successfully manage such an intervention.

**Question 23:** Who in particular should any additional support be targeted at?

GG. Same answer as at EE.