

Frequently Asked Questions on the Retail Market Review

We are publishing a list of frequently asked questions on the RMR proposals for households and business customers. We are committed to a transparent process and our intention is to give interested parties a wider understanding of what we are proposing, how it could work in practice, and help them to submit a better informed response to our consultation.

On 26 October 2012 we published the Retail Market Review (RMR) consultation on our plans for a package of simpler, clearer, fairer measures to improve radically the competitiveness of the household energy market.¹ We also published the RMR consultation on our updated proposals to improve the way the retail energy market works for businesses.²

Since then, we have held a number of meetings with stakeholders, including suppliers and consumer organisations. These meetings have been very useful to understand the initial reactions to our proposals, and also to clarify stakeholders' questions on how our proposed measures could work in practice. Some of these questions were common to different stakeholders and we consider that publishing a list of frequently asked questions on the RMR proposals would be a transparent and useful way of clarifying and providing information to any interested party.

The clarifications we provide to these questions reflect the policy intention of the proposals we are currently consulting on. We welcome your views on these proposals, including on how they could work in practice, or on how any alternatives to our proposals could work better. We will consider these views once responses to our consultation are submitted, and assess how they will shape the design of our final proposals. The consultation is open until the 21st December 2012.

Any questions on this document or on the RMR can be submitted to Cesar Coelho (email to: retailmarket.review@ofgem.gov.uk).

¹ Ofgem (October 2012), "The Retail Market Review - Updated domestic proposals (Reference number: 135/12)", available at <http://www.ofgem.gov.uk>.

² Ofgem (October 2012) "The Retail Market Review - Updated proposals for businesses (Reference number: 134/12)", available at <http://www.ofgem.gov.uk>.

RMR FOR HOUSEHOLD CUSTOMERS

1. Tariff simplification

Under our tariff simplification proposal, we put forward a number of specific rules that suppliers would be required to follow in designing and offering their tariffs. This includes bundled offers and discounts. The aim of these rules is to make it easier for consumers to assess different tariff offers.

Some of the rules that we propose in relation to discounts

- Dual fuel discounts would be expressed in pounds per year (£/year) and would not count towards the number of core tariffs
- All discounts with the exception of dual fuel would be a separate core tariff
- All discounts with the exception of dual fuel would have to be expressed either in pounds per year (£/year) or pence per kilowatt hour (p/kWh)
- Differences in payment methods would have to be reflected either in the standing charge or the unit rate
- Discounts would have to be applied on a continuous basis
- Discounts would have to be the same across all regions (and in the case of dual fuel discounts, the same across all of a supplier's tariffs)
- Loyalty offers would be considered a termination charge, and therefore would be banned from the evergreen market

To make it easier to understand the application of these rules, we present in Table 1 below some examples of potential discounts and the effect of our proposed rules.

Table 1 Example of some effects of the proposed rules on discounts

Discount	Effect of proposed rules
Dual fuel discount	<ul style="list-style-type: none">• It does not increase the number of tariffs.• Has to be expressed in £/year.• Has to be applied continuously.• Has to be the same monetary amount across all tariffs and regions.
Direct debit discount	<ul style="list-style-type: none">• Any price differences related with payment methods have to be reflected either in the standing charge or in the unit rate of the core tariffs. In this sense, under our proposed rules direct debit is not a discount.• The differences in payment methods would have to be the same across all of a supplier's tariffs and be the same across all regions. Differences in payment methods would also have to be cost reflective in order to comply with existing rules.
Paperless and/or online discount	<ul style="list-style-type: none">• It is provided as part of a separate core tariff.• Has to be expressed in £/year or p/kWh.• Has to be applied continuously.• Has to be the same monetary amount across all regions.
Prompt pay discount	<ul style="list-style-type: none">• It does not meet the requirement to be applied continuously and therefore these types of discounts would not exist under our proposed rules.

Loyalty discount	<ul style="list-style-type: none"> • If it is applied continuously: <ul style="list-style-type: none"> ○ it is provided as part of a separate core tariff. ○ it has to be expressed in £/year or p/kWh. ○ it has to be the same monetary amount across all regions.
Loyalty points	<ul style="list-style-type: none"> • The effects are the same as for loyalty discounts.
£100 off annual bill for switching to supplier	<ul style="list-style-type: none"> • It does not meet the requirement to be applied continuously and therefore these types of discounts would be banned under our proposed rules.

Our proposed rules for discounts aim to strike a good balance between allowing suppliers to offer them and making them less complex for consumers to navigate.³ With our consultation we expect to hear from interested stakeholders on whether this is the right balance, and welcome any views on how alternatives to our proposed rules would better help consumers to assess the different tariff offers effectively.

How will Ofgem's tariff simplification proposals work with different meter types used by consumers?

We recognise there is a wide range of meter types in the domestic energy market and our proposals accommodate this. Each supplier will be able to offer four core tariffs per meter type. This applies to widely used meters such as E7, E10, and Dynamic Tele Switching,⁴ as well as meters that may be unique to particular groups of customers (those in social housing accommodation for example). We welcome interested parties to provide in their response to our consultation further details on the different meter-types available in the market and we welcome stakeholders' views on how our tariff simplification proposals may work with them.

How do our proposals interact with white labels?⁵

Suppliers are currently able to partner with third parties to offer particular energy tariffs. Our proposals allow this practice to continue, including the use of branding. They preserve suppliers' ability to innovate and to develop unique offers that consumers value. However, suppliers will need to work within the constraints of our other tariff rules. This will mean that any white label tariff with a different name or any other terms and conditions in relation to the tariffs offered by the supplier will count towards their overall number of core tariffs. We are interested in hearing from interested parties about how our proposals could facilitate an appropriate level of innovation whilst helping to achieve the key RMR goal of reducing tariff complexity.

What are our proposals for deemed tariffs?⁶

We proposed that a deemed tariff would not count towards the tariff cap when its terms and conditions are the same as the terms and conditions of the cheapest evergreen tariff. We also proposed that suppliers should ensure that consumers on poor value 'dead' tariffs

³ We can clarify that it is not Ofgem's intention to treat compensation payments as discounts and therefore we will be considering appropriate rules to facilitate this as part of the development of our proposals.

⁴ E7 and E10 are tariffs that have different unit rates for consumption during the day and during the night. The number following 'Economy' refers to the number of hours for which night-time rates are available. Dynamic Tele Switching is a particular type of electricity meter where the tariffs have a control unit that allows the supplier (or distribution company) to switch the metered supply remotely by radio teleswitch. The Radio Teleswitching Access Provider controls the radio switches, and therefore heating load, following instructions from the supplier.

⁵ White label is a tariff offered by a licensed energy supplier but uses the brand name of a non-licensed entity (excluding a brand name of the corporate group to which the licensed supplier belongs). The price and terms of the tariff may replicate those of the licensed supplier or may be modified to suit the specific needs of the brand. The legal relationship between the customer and the licensed energy supplier remain unchanged irrespective of the brand utilised for sales and marketing purposes

⁶ A deemed tariff is used in contracts deemed to be in place where a customer takes a supply of electricity and/or gas otherwise than under a contract that has been expressly entered into with a supplier.

(those serving existing customers but not open to new customers) become subject to the supplier's cheapest evergreen tariff for their payment method, meter type and method of account access (online or offline). In practice, we propose that all evergreen consumers must be migrated from a dead tariff to an appropriate live tariff within six months of RMR's implementation date. This may mean that a consumer does not expressly agree to the migration (for example if they do not return the appropriate forms). In this case the consumer must be migrated to a deemed contract that has identical terms to an existing live contract.

How will our proposals support collective switching?

Collective switching is where a third party intermediary helps a group of consumers switch to another supplier. Supporters of collective switching believe it can achieve more competitive deals for the group than if individual consumers acted alone. Our proposals aim to support collective switching initiatives. For example, suppliers will be able to develop an additional core tariff if they need it to participate in a collective switching scheme. There will be no restrictions on whether this tariff is fixed-term or evergreen. We are currently developing work in parallel to explore the issues around collective switching. We will also consider these issues in a tariffs workgroup that we will hold in the near future.

2. Tariff Comparison Rate

What is a Tariff Comparison Rate?

A Tariff Comparison Rate (TCR) is a measure of the cost of an energy tariff for typical consumers in Great Britain. All suppliers will calculate TCRs for each tariff they offer. Under our proposal, every supplier will calculate the TCR using the same methodology and so consumers can compare the TCRs of different tariffs with confidence. The lower the TCR, the cheaper the tariff for a typical consumer. TCRs will be calculated for low, medium and high users at particular consumption levels. The consumption figures are unlikely to be identical to that of an individual consumer and so TCRs can be used only as a guide to whether the consumer could save money on energy supply.

How will TCRs work with dual fuel tariffs?

Under our proposal for tariff simplification, suppliers may apply a dual fuel discount where a customer takes both fuels (the dual fuel discount would not increase the number of core tariffs). To facilitate the comparison of tariffs, including the comparison of single fuel offers with dual fuel offers, our proposal is for each fuel to have a separate TCR. This means that a customer that subscribes to both fuels from the same supplier would always have two separate TCRs, one for the electricity tariff and the other for the gas tariff. We also propose to request suppliers to halve the dual fuel discount between the electricity and gas tariffs.

How does Ofgem envisage the TCR being used and promoted?

Our proposal to introduce the TCR aims to prompt consumers to engage with the energy market. It allows consumers to access information on a number of tariffs which is presented in a consistent manner and this might encourage a customer then to further investigate a tariff with a lower TCR than their own tariff. Both the TCR and the personal projection aim to make it easier for consumers to compare tariffs by expressing prices as a single number. We consider that the TCR could play an important role in promoting effective engagement in the retail market, alongside our other proposals in the RMR package of remedies. We therefore propose to require suppliers to include the TCR in personal communications to customers (e.g. the bill or annual statement) and also in sales and marketing materials (e.g. sales activities, direct mail, the supplier website).

We would hope to see the introduction of TCRs also leading to the publication of best buy tables by third parties. In the consultation document we ask for views on potential barriers to the publication of best buy tables and views on our role in facilitating its publication. For example, we seek views on whether it would be necessary for us to amend the Confidence

Code (which governs comparison websites) and/or require suppliers to publish or provide third parties with TCR information for all of their tariffs in an appropriate format.

Ofgem proposes weighting the national TCR using the supplier's number of customers in each region. Is this the best way to do this?

Given that there are different standing charges and/or unit rates for different regions across Great Britain, we propose that the TCR should be calculated as national averages. TCRs presented as Great Britain averages would help to achieve one of the aims of the TCR, namely to remove confusion from tariff price comparisons. It would also allow TCRs to be used in national media and in suppliers' marketing campaigns. We note that this approach could lead to significant regional price differentials. To mitigate that risk and the risk of misuse of the TCR in specific regions, we propose to set a national TCR by averaging the regional TCRs, weighted by the supplier's number of customers in each region. We are interested in understanding stakeholders' views on the extent to which this methodology enables to mitigate the identified risks and, in particular, we are interested to hear how other alternatives could better mitigate these risks.

3. Supplier Cheapest Deal

Why has Ofgem proposed to require suppliers to inform consumers of the cheapest tariff that is available for their circumstances?

Energy suppliers signed up to a voluntary agreement with the Government to provide consumers with information about the best deal for them. We consider that this agreement complements our RMR objectives of improving customer trust and facilitating consumer engagement. However, our view is that a more stringent and consistent approach and an enforceable framework is required.

How does Ofgem's proposal differ from the voluntary agreement?

We are proposing to go beyond the voluntary agreement by requiring personalised information for each consumer using their consumption data. We note that under the Clegg agreement suppliers have committed to pass on usage data when a consumer changes supplier. Therefore in most cases the supplier should hold a customer's consumption data. On bills and annual statements, we propose prescribing the message to be provided alongside the information on the supplier's cheapest tariff.

Are there any restrictions on the types of tariffs that can be included in the cheapest tariff messaging?

It is important that tariffs offered to consumers are genuinely available at the time they are offered and for a reasonable time afterwards so consumer trust is not eroded. Therefore, we propose to set some criteria for the inclusion of a tariff in the supplier's cheapest tariff messaging. For example, criteria could include a requirement that tariffs are open to an unlimited number of consumers for at least four weeks from the time the communication goes out to consumers, with no restrictions on location or qualification. The key principle would be that niche, limited application or limited availability tariffs could not be included.

4. Market Cheapest Deal

Why is Ofgem thinking of requiring suppliers to tell some consumers the cheapest tariff available for them, even if it is offered by a competitor?

We are confident that the other RMR measures reforms will make it easier for active consumers to choose the best deal and will widen the pool of engaged consumers through further prompts and building trust and confidence. However, our consumer research suggests that for many sticky customers, these reforms may not be sufficient to encourage them to enter the market of their own accord. We have therefore proposed to develop a

scheme to provide the most sticky and vulnerable consumers with personalised information about the estimated cheapest deals for them in the market, perhaps on an annual basis. These consumers are the least likely to use the information in the RMR package to assess the offers available and are most likely to need direct and personal information about savings to raise awareness.

How developed is this proposal?

The market cheapest deal proposal is at an early stage of its development. We proposed to undertake further work to develop the details of the scheme, including looking at a range of approaches for getting this information to consumers. We think it would be in line with best practice to work with suppliers and other parties as appropriate to trial the scheme before any decision is taken on whether or not to implement it. This will allow us to understand the practical issues associated with the scheme and its effectiveness in encouraging engagement.

How can Ofgem be sure that this measure will be effective?

At this stage, we cannot be sure that the measure would succeed in engaging the most sticky and vulnerable consumers in the market. Given the challenges associated with such a scheme, we will be looking to work with the industry and relevant third parties to trial a Market Cheapest Deal initiative. Indeed, we have proposed to set up a working group to design the scheme. Once we have a design in place, and before deciding whether to implement the scheme, we would work with industry to set up a trial of the initiative. The primary purpose of the trial will be to understand how effective the scheme will be in increasing effective engagement for the consumers at which the initiative is targeted. The trial should also help us better understand the likely cost of the scheme and in finalising the details of how the scheme should work.

5. Improving Information

Can key communications (annual statement, bill/statement of account, price increase notice, end of fixed term notice) be sent via the communication channel preferred by the customer, such as electronically?

Yes. The current standard licence conditions 31A and 23 do not preclude these communications being sent electronically, where the customer and the supplier have agreed to do so. However, for the avoidance of doubt, any communications sent electronically are subject to the same requirements as hard copy communications.

Where a customer is supplied both gas and electricity, do two single fuel annual statements need to be sent separately?

Our current proposals require that an annual statement is provided for each fuel and sent separately from any other document including, but not limited to, the bill or statement of account. However, the policy intent of these proposals is not to preclude more than one single fuel annual statement being sent in the same mailing to a customer.

Are the bar charts on the annual statement template showing a customer's energy usage prescriptive or does each supplier have the freedom to tailor this data?

The draft standard licence condition 31A specifies that the graph on the annual statement must be a bar chart showing a comparison of a consumer's consumption and during two separate periods. However, the exact format of the bar chart is not prescribed and is at the discretion of the supplier.

How will Green Deal information be incorporated into the prescribed communications?

There is currently a placeholder for Green Deal information on the annual statement for any further requirements to be incorporated into the prescribed template. However, we would welcome your views on any interactions you consider the Green Deal may have.

What are the 'key contractual terms' that suppliers are required to include in the Tariff Information Label?

The 'key contractual terms' required to be included for the Tariff Information Label and the annual statement are the principle terms and the relevant principle terms to the contract, as defined in standard licence conditions.

6. Standards of Conduct

Why take a principles based approach to the SOC and a more directive based approach to other policy areas of the RMR?⁷

For the SOC policy, we propose using a principles-based approach to regulation. Given the scope of the proposed SOC, we think the alternative option of detailed and prescriptive rules for the SOC is impractical as it is likely to be incomplete and less flexible to market developments. A principles based approach has the benefit of focusing suppliers on what consumers need rather than on understanding how Ofgem interprets a prescriptive rule. Principles-based regulation allows suppliers scope to consider the needs of consumers and how to best meet the objectives set out in the SOC, this approach also offers flexibility for suppliers to innovate (e.g. develop and adopt technological or other change).

The specific regulatory approach outlined in each RMR policy proposal is designed to address a specific set of issues and concerns identified in the market and, more broadly, to fit with the wider package of RMR proposals. Rather than a blanket approach, each proposal was designed to take into account the research and information available in the evidence-base and proportionate manner.

Ultimately, suppliers will need to comply with licence conditions which will not be superseded by the SOC. Consumer research shows that consumers view energy as an essential service and expect a certain level of service from suppliers. For further details, this research is published in the RMR section of Ofgem's website.

Will the proposed approach mitigate the concerns of regulatory risk?

We have proposed to take a bespoke policy approach to enforcement with regard to the SOC. Ofgem will ensure that in most cases there is a dialogue with suppliers and we intend to take a more holistic approach to regulating the SOC – considering the outcomes for consumers, but also taking account of other factors (e.g. how suppliers embed the SOC into their business and what drove their discussion making process).

We propose our assessment of the seriousness of a potential breach will include consideration of whether a reasonable person, intent on complying with the fairness objective of the SOC, would have acted in the way the supplier did in its interactions with customers. The reasonable person test has been proposed to ensure that we do not evaluate cases with the benefit of hindsight. We have proposed to evaluate the case by looking to see if a 'reasonable person' with the intent of treating their customers fairly would have acted in the way in which the supplier in question had.

We are currently undertaking a review of Ofgem's enforcement policies and procedures, which will take the SOC enforcement approach into account and may lead to further

⁷ A principles based approach moves away from a regulator dictating through detailed prescriptive rules on how firms should operate their business. Based on this approach a regulator sets desirable regulatory outcomes in the form of principles. This approach will give firms the responsibility to decide how best to align their business objectives and processes with regard to our proposed policy.

revisions to the Enforcement Guidelines. We will publish our initial thinking on the review in March 2013.

We also proposed to minimise the concerns of regulatory risk by providing some guidance to suppliers. This proposal includes providing legal definitions of key terms within the SOC, including what we mean by 'appropriate', 'professional manner', etc. This will provide suppliers greater clarity regarding these terms and our policy intent.

What lies within the scope of the SOC?

The SOC for domestic customers covers all interactions between suppliers and their customers. The exception to the scope are in respect of the amount or amounts of any Charges for the Supply of gas or electricity which are determined by the licensee.

RMR FOR BUSINESS CUSTOMERS

How will Third Party Intermediaries (TPIs) be enforced? What will be the main features of the code?

In early 2013 will be convening an industry working group between suppliers, TPIs and consumer groups to consider the different issues and experiences across the industry and specific requirements of the code. We will be doing further work in 2013 on who will be responsible for monitoring and enforcing such a code.

If you would like to register an interest in the TPI working group please email rmr@ofgem.gov.uk. Please note that from this list we will form a core working group of a manageable and workable size, ensuring we cover a range of interested parties. The discussions and proposed decisions will then be made more widely available to all interested parties on our website. We will be sending out more information on this in the New Year.

We are progressing our engagement with BIS to seek powers under the Business Protections against Misleading Marketing Regulations to allow us to take direct action against TPIs that mis-sell. We will be issuing a consultation letter in due course

Do the proposals for SLC 7A mean the opt-out of roll over is no longer an option? Is 'opt in' to automatic rollover possible?

The intention of our proposal is to simplify the termination process for small business consumers. Not all suppliers treat the notice that a customer does not want to rollover as also being their notice that they wish to terminate their contract at the end of a fixed term period.

Our proposal would mean that a small business consumer would only be required to provide one notice of termination, and this must be accepted at any time before the last date notice can be given (typically 30 to 90 before the contract ends).

Why have we not banned automatic rollovers?

The current supply licence conditions 7A sets out that if certain procedures are followed, including sending out advance notice, a supplier may automatically rollover a customer's contract for up to 12 months. A number of consumer groups have called for this to be banned altogether. However, we cannot remove this condition without fully considering the impacts this would have. We have pledged to undergo this review as soon as we have concluded on the amended definition of customers that are captured by SLC 7A. We will need to know who the licence condition applies to before we can determine the costs and benefits. In the meantime, we consider that our other proposals, including signposting on a bill when a contract is due to end, and clarifying the termination rules, will reduce the amount of people who feel caught out by this facility.

What are Ofgem's anticipated timeframes for implementation of Standard Licence Condition (SLC) 7A amendments?

The implementation time scales are detailed on page 14-15 of the RMR updated proposals for businesses. Our proposals relating to the protection afforded to businesses by licence condition 7A will require suppliers to make changes to systems and undertake other back office preparatory work before they can be implemented. There will also need to be a period of time for transitional arrangements with customer communications and to change contractual terms for new fixed term contracts. We expect suppliers to do all they can to ensure consumers are given clear information about any changes in the terms and conditions of their tariffs as part of this process. We are proposing that the various changes set out in Chapter 3 on SLC 7A come into effect as follows:

- End date of contract and notice period to appear on bills of all small business customers on Day 1 + 4 months. This is to allow for back office changes to be made.

- Expanding the requirements of SLC7A to small businesses is to take effect for new contracts on Day 1 + 4 months. For contracts entered into before Day 1, we propose that the requirements of SLC 7A will come into effect 130 days before the first rollover of an existing contract. This is to allow for the required notices to be sent before rollover.
- We propose that amendments to the termination rule, that require suppliers to accept termination notices at any time up to the last day of notice comes into effect on Day 1 + 4 months for new contracts and for existing contracts to come into effect on and from the date the first rollover takes effect. This is to take account of any potential costing implications for contracts this rule may impact on.

How will the non-domestic Standards of Conduct work with other licence conditions?

The proposed Standards of Conduct will complement existing obligations. Depending on the nature of the suspected problem, it would be possible for an energy supplier to be in breach of existing obligations and the proposed Standards of Conduct.

For example, if a supplier fails to meet existing obligations in their interactions with their customers, we may also look at whether a supplier's behaviour has been unfair. This may mean the supplier has breached the Standards of Conduct and existing obligations.

When assessing whether to investigate a licence breach, we will take account of a range of factors including detriment and the nature of the problem. All breaches of the licence will inform our overall decision in an investigation.

Would an unduly onerous deemed rate be in breach of both Standards of Conduct and SLC 7?

Supply Licence Condition 7 outlines how energy companies can set the terms of a deemed contract. This condition has a specific test which is used to assess whether the prices in the deemed contract are unduly onerous.

The proposed new Standards of Conduct have an overarching principle that suppliers should act fairly when they deal with their customers. We believe that the unduly onerous test and the fairness provision are broadly complimentary in terms of the spirit of the requirements and we may choose to assess deemed contracts using both SLC 7 and the fairness provision of SLC 25B.